

HOUSE BILL 451

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HB 849/00 - JUD

2001 Regular Session
11r0292

By: **Delegate Montague**

Introduced and read first time: February 2, 2001

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Causes**

3 FOR the purpose of separating the statutory provisions relating to children in need of
4 assistance (CINAs) from the statutory provisions relating to delinquent children
5 and children in need of supervision; requiring a guardian of a child to give
6 certain notice to the parents of a child under circumstances; stating the
7 purposes and providing for the construction of the provisions relating to CINAs;
8 altering the jurisdiction of the juvenile court; expanding a requirement for
9 assignment of judges specially to hear juvenile causes; imposing a duty to notify
10 the juvenile court of certain pending cases involving alleged CINAs; specifying
11 the format and contents of a CINA petition; requiring separate petitions for each
12 child and separate files for each case; repealing the authority of the Department
13 of Juvenile Justice to file a CINA petition; requiring a local department of social
14 services to file a CINA petition under certain circumstances; altering the
15 jurisdictions in which CINA petitions may be filed; requiring the juvenile court
16 to communicate with certain other courts under certain circumstances;
17 specifying the procedures for transfer of CINA cases; authorizing the juvenile
18 court to obtain information under the Maryland Uniform Child Custody
19 Jurisdiction Act under certain circumstances; altering the reviewing authority
20 for decisions not to file a CINA petition; requiring the juvenile court to close
21 CINA proceedings to the general public under certain circumstances; altering
22 the role of the Office of the Public Defender and attorneys under contract with
23 the Department of Human Resources as to representation of children alleged or
24 adjudicated CINAs and their parents subject to a certain condition; altering the
25 methods by which a child may be taken into custody under the CINA statute;
26 altering the duty of a law enforcement officer to notify certain persons when a
27 child is taken into custody; clarifying the time frame within which certain
28 shelter care hearings are to be held; altering the agencies responsible for
29 adoption of regulations governing shelter care of alleged CINAs; prohibiting the
30 court from ordering an inpatient evaluation, except under certain
31 circumstances; clarifying the circumstances under which the court is authorized
32 to order emergency medical or psychiatric treatment for a child; specifying the
33 factors a court is required to apply when determining whether to withhold or
34 withdraw life-sustaining procedures; conforming terminology in certain
35 provisions relating to shelter care and commitment to provisions in the Health -

1 General Article as to mental disorders, mental retardation, and developmental
2 disabilities; expanding the required contents of certain regulations; specifying
3 times for delivery of certain evaluations, reports, and permanency plans for
4 CINA proceedings; making certain rules of evidence applicable to adjudication
5 hearings; altering a certain presumption regarding certain babies born addicted
6 to or dependent on certain controlled dangerous substances; clarifying the bases
7 for determination regarding reunification efforts; clarifying that a CINA finding
8 is to be made at the disposition hearing; authorizing a court to award custody of
9 a child alleged to be a CINA to the other parent of the child under certain
10 circumstances; altering the permissible dispositions on a CINA petition;
11 specifying the contents of orders of removal; providing for the emergency
12 removal from certain placements of children found to be CINA; expanding a
13 requirement for on-the-record findings as to children in need of certain
14 inpatient medical care; authorizing the court to issue orders directing,
15 restraining, or otherwise controlling nonparties under certain circumstances;
16 providing for the enforcement of such orders; expanding the proceedings in
17 which evidence taken in a CINA proceeding may be used; altering the
18 permanency plan options; requiring the court to order a local department of
19 social services to file a petition for termination of parental rights within a
20 certain period of time under certain circumstances; defining certain terms;
21 altering certain definitions; expanding access to court records pertaining to
22 CINA proceedings; clarifying the scope of the Court-Appointed Special Advocate
23 programs; repealing a requirement for local matching funds for such programs,
24 subject to certain conditions; correcting certain cross-references; making
25 stylistic changes; providing for the construction of this Act; providing for the
26 effective date of certain provisions of this Act; and generally relating to juvenile
27 causes.

28 BY renumbering

29 Article - Courts and Judicial Proceedings
30 Section 3-8A-01 and 3-8A-02 and the subtitle "Subtitle 8A. Mandamus";
31 3-816, 3-822, 3-824, 3-829, 3-832, and 3-836, respectively
32 to be Section 3-8B-01 and 3-8B-02 and the subtitle "Subtitle 8B. Mandamus";
33 3-8A-16, 3-8A-21, 3-8A-23, 3-8A-28, 3-8A-31, and 3-8A-34,
34 respectively
35 Annotated Code of Maryland
36 (1998 Replacement Volume and 2000 Supplement)

37 BY repealing

38 Article - Courts and Judicial Proceedings
39 Section 3-801.1, 3-803, 3-812.1, 3-813, 3-826.1, 3-833, 3-834.1, 3-837, and
40 3-837.1
41 Annotated Code of Maryland
42 (1998 Replacement Volume and 2000 Supplement)

43 BY adding to

44 Article - Courts and Judicial Proceedings

1 Section 3-801 through 3-830 to be under the amended subtitle "Subtitle 8.
2 Juvenile Causes - Children in Need of Assistance"; and 3-8A-04
3 Annotated Code of Maryland
4 (1998 Replacement Volume and 2000 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article - Courts and Judicial Proceedings
7 Section 3-813(c) and 3-830(c)
8 Annotated Code of Maryland
9 (1998 Replacement Volume and 2000 Supplement)
10 (As enacted by Section 3 of this Act)

11 BY repealing and reenacting, with amendments,
12 Article - Courts and Judicial Proceedings
13 Section 3-801, 3-802, 3-804, 3-805, 3-806, 3-807, 3-808, 3-809, 3-810,
14 3-810.1, 3-811, 3-812, 3-814, 3-815, 3-817, 3-818, 3-819, 3-820, 3-820.1,
15 3-820.2, 3-820.3, 3-820.4, 3-820.5, 3-821, 3-823, 3-825, 3-826, 3-827,
16 3-828, 3-830, 3-831, 3-834, and 3-835 to be under the new subtitle
17 "Subtitle 8A. Juvenile Causes - Children Other Than CINAs and Adults";
18 4-301(a), 5-805(a)(3) and (5)(ii)2., and 12-403(a)
19 Annotated Code of Maryland
20 (1998 Replacement Volume and 2000 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article - Education
23 Section 7-303(a)(5)(ii) and 26-103(b)(1)
24 Annotated Code of Maryland
25 (1999 Replacement Volume and 2000 Supplement)

26 BY repealing and reenacting, with amendments,
27 Article - Family Law
28 Section 5-322(a)(1)(ii) and (b)(1) and (2) and 5-525(d)(1)
29 Annotated Code of Maryland
30 (1999 Replacement Volume and 2000 Supplement)

31 BY repealing and reenacting, with amendments,
32 Article - Health - General
33 Section 10-923(a)(4), (6), and (7)
34 Annotated Code of Maryland
35 (2000 Replacement Volume)

36 BY repealing and reenacting, with amendments,
37 Article - Insurance
38 Section 19-515

1 Annotated Code of Maryland
2 (1997 Volume and 2000 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article - Natural Resources
5 Section 8-712.2(e)
6 Annotated Code of Maryland
7 (2000 Replacement Volume)

8 BY repealing and reenacting, with amendments,
9 Article - Transportation
10 Section 16-206(b)(1) and (c)(1) and (2) and 24-304(b)
11 Annotated Code of Maryland
12 (1999 Replacement Volume and 2000 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article 27 - Crimes and Punishments
15 Section 402(a) and 763(d)
16 Annotated Code of Maryland
17 (1996 Replacement Volume and 2000 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article - Criminal Procedure
20 Section 4-202(b) and (c), 10-106, 10-201(d)(3), 10-215(a)(21), 10-216(e)(1),
21 10-220, 11-113(c), 11-202, 11-302(b) and (g), and 11-402(c)
22 Annotated Code of Maryland
23 (As enacted by Chapter _____ (S.B. 1) of the Acts of the General Assembly of
24 2001)

25 BY repealing and reenacting, with amendments,
26 Article 83C - Juvenile Justice
27 Section 2-101(b), 2-112, 2-118(b), and 2-126
28 Annotated Code of Maryland
29 (1998 Replacement Volume and 2000 Supplement)

30 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
31 MARYLAND, That Section(s) 3-8A-01 and 3-8A-02 and the subtitle "Subtitle 8A.
32 Mandamus"; 3-816, 3-822, 3-824, 3-829, 3-832, and 3-836, respectively, of Article -
33 Courts and Judicial Proceedings of the Annotated Code of Maryland be renumbered to
34 be Section(s) 3-8B-01 and 3-8B-02 and the subtitle "Subtitle 8B. Mandamus";
35 3-8A-16, 3-8A-21, 3-8A-23, 3-8A-28, 3-8A-31, and 3-8A-34, respectively.

36 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 3-801.1,
37 3-803, 3-812.1, 3-813, 3-826.1, 3-833, 3-834.1, 3-837, and 3-837.1 of Article -
38 Courts and Judicial Proceedings of the Annotated Code of Maryland be repealed.

1 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
2 read as follows:

3 **Article - Courts and Judicial Proceedings**

4 Subtitle 8. Juvenile Causes - CHILDREN IN NEED OF ASSISTANCE.

5 3-801.

6 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
7 INDICATED.

8 (B) "ABUSE" MEANS:

9 (1) SEXUAL ABUSE OF A CHILD, WHETHER A PHYSICAL INJURY IS
10 SUSTAINED OR NOT; OR

11 (2) PHYSICAL OR MENTAL INJURY OF A CHILD UNDER CIRCUMSTANCES
12 THAT INDICATE THAT THE CHILD'S HEALTH OR WELFARE IS HARMED OR IS AT
13 SUBSTANTIAL RISK OF BEING HARMED BY:

14 (I) A PARENT OR OTHER INDIVIDUAL WHO HAS PERMANENT OR
15 TEMPORARY CARE OR CUSTODY OR RESPONSIBILITY FOR SUPERVISION OF THE
16 CHILD; OR

17 (II) A HOUSEHOLD OR FAMILY MEMBER.

18 FOSTER CARE COURT IMPROVEMENT PROJECT COMMITTEE NOTE:

19 This definition was added. It is consistent with the definition in FL §
20 5-701 but has been restructured to clarify that the phrase "under
21 circumstances that indicate ... being harmed" applies to injury by a parent
22 or other custodian, and not merely household or family members.

23 In item (2)(i) of this subsection, the word "individual" was used instead of
24 "person", to make clear that corporations and other entities are not
25 encompassed.

26 (C) "ADJUDICATION HEARING" MEANS A HEARING UNDER THIS SUBTITLE TO
27 DETERMINE WHETHER THE ALLEGATIONS IN THE PETITION, OTHER THAN THE
28 ALLEGATION THAT THE CHILD REQUIRES THE COURT'S INTERVENTION, ARE TRUE.

29 COMMITTEE NOTE: This definition was derived from former CJ § 3-801(b).

30 (D) "ADULT" MEANS AN INDIVIDUAL WHO IS AT LEAST 18 YEARS OLD.

31 COMMITTEE NOTE: This definition was derived from former CJ § 3-801(c).

32 The word "individual" was substituted for "person", to make clear that
33 corporations or other entities are not encompassed.

1 (E) "CHILD" MEANS AN INDIVIDUAL UNDER THE AGE OF 18 YEARS.

2 COMMITTEE NOTE: This definition was derived from former CJ § 3-801(d).

3 The word "individual" was substituted for "person", to make clear that
4 corporations or other entities are not encompassed.

5 (F) "CHILD IN NEED OF ASSISTANCE" MEANS A CHILD WHO REQUIRES COURT
6 INTERVENTION BECAUSE:

7 (1) THE CHILD HAS BEEN ABUSED, HAS BEEN NEGLECTED, HAS A
8 DEVELOPMENTAL DISABILITY, OR HAS A MENTAL DISORDER; AND

9 (2) THE CHILD'S PARENTS, GUARDIAN, OR CUSTODIAN ARE UNABLE OR
10 UNWILLING TO GIVE PROPER CARE AND ATTENTION TO THE CHILD AND THE CHILD'S
11 NEEDS.

12 COMMITTEE NOTE: This language was substituted for former CJ § 3-801(e)
13 and revised for clarity.

14 (G) "CINA" MEANS A CHILD IN NEED OF ASSISTANCE.

15 COMMITTEE NOTE: This definition was added to allow concise reference to a
16 child in need of assistance and coincides with the terminology used in
17 practice.

18 (H) "COMMIT" MEANS TO TRANSFER CUSTODY.

19 COMMITTEE NOTE: This definition was derived from former CJ § 3-801(h).

20 By deleting the word "legal" from the former definition of "commit", it is
21 not the Committee's intent to diminish the rights of the child's custodian to
22 take care and control of the child or to make health, education, and other
23 decisions for the child as previously existed under the prior statute.
24 Rather, by using the word "custody", the Committee intends that both legal
25 and physical custody, as understood under common law, apply. *See Taylor*
26 *v. Taylor*, 306 Md. 290, 296 (1986) and *In Re William George T.*, 89 Md.
27 App. 762, 771-72 (1992). It is the Committee's intent that commitment of a
28 CINA has the same legal effect as the transfer of legal and physical custody
29 under common law.

30 (I) "COURT", UNLESS OTHERWISE INDICATED, MEANS:

31 (1) A CIRCUIT COURT FOR A COUNTY SITTING AS THE JUVENILE COURT;
32 OR

33 (2) IN MONTGOMERY COUNTY, THE DISTRICT COURT SITTING AS THE
34 JUVENILE COURT.

35 COMMITTEE NOTE: This definition was derived from former CJ § 3-801(i).

1 The former reference to "Baltimore City" was deleted as unnecessary in
2 light of Art. 1, § 14 of the Code, which defines "county" to include Baltimore
3 City.

4 The directive that the District Court in Montgomery County follow the
5 applicable rules of the circuit court while sitting as the juvenile court is
6 stated as a substantive requirement in proposed § 3-808(b) of this subtitle.

7 (J) "CUSTODIAN" MEANS A PERSON OR GOVERNMENTAL AGENCY TO WHOM
8 CUSTODY OF A CHILD HAS BEEN GIVEN BY ORDER OF COURT, INCLUDING A COURT
9 OTHER THAN THE JUVENILE COURT.

10 COMMITTEE NOTE: The definition was derived from former CJ § 3-801(j) and
11 revised to be consistent with the definition of "custody".

12 (K) "CUSTODY" MEANS THE RIGHT AND OBLIGATION, UNLESS OTHERWISE
13 DETERMINED BY THE COURT, TO PROVIDE ORDINARY CARE FOR A CHILD AND
14 DETERMINE PLACEMENT.

15 COMMITTEE NOTE: This definition was added to reflect terms used in CINA
16 practice.

17 (L) "DEVELOPMENTAL DISABILITY" MEANS A SEVERE CHRONIC DISABILITY
18 OF AN INDIVIDUAL THAT:

19 (1) IS ATTRIBUTABLE TO A PHYSICAL OR MENTAL IMPAIRMENT, OTHER
20 THAN THE SOLE DIAGNOSIS OF MENTAL ILLNESS, OR TO A COMBINATION OF
21 MENTAL AND PHYSICAL IMPAIRMENTS;

22 (2) IS LIKELY TO CONTINUE INDEFINITELY;

23 (3) RESULTS IN AN INABILITY TO LIVE INDEPENDENTLY WITHOUT
24 EXTERNAL SUPPORT OR CONTINUING AND REGULAR ASSISTANCE; AND

25 (4) REFLECTS THE NEED FOR A COMBINATION AND SEQUENCE OF
26 SPECIAL, INTERDISCIPLINARY, OR GENERIC CARE, TREATMENT, OR OTHER SERVICES
27 THAT ARE INDIVIDUALLY PLANNED AND COORDINATED FOR THE INDIVIDUAL.

28 COMMITTEE NOTE: This definition was added to reflect terms used in CINA
29 practice. The language was taken from the definition in HG § 7-101,
30 omitting the provision that the disability must manifest before the age of
31 22.

32 (M) "DISPOSITION HEARING" MEANS A HEARING UNDER THIS SUBTITLE TO
33 DETERMINE:

34 (1) WHETHER A CHILD IS IN NEED OF ASSISTANCE; AND

35 (2) IF SO, THE NATURE OF THE COURT'S INTERVENTION TO PROTECT
36 THE CHILD'S HEALTH, SAFETY, AND WELL-BEING.

1 COMMITTEE NOTE: This subsection is new language substituted for former
2 CJ § 3-801(n), as it related to CINA proceedings, to clarify what is to occur
3 at this CINA hearing.

4 (N) "GUARDIAN" MEANS A PERSON TO WHOM GUARDIANSHIP OF A CHILD HAS
5 BEEN GIVEN BY ORDER OF COURT, INCLUDING A COURT OTHER THAN THE JUVENILE
6 COURT.

7 COMMITTEE NOTE: This definition was added to allow concise reference to
8 the types of parties to a case.

9 (O) "GUARDIANSHIP" MEANS AN AWARD BY A COURT, INCLUDING A COURT
10 OTHER THAN THE JUVENILE COURT, OF THE AUTHORITY TO MAKE ORDINARY AND
11 EMERGENCY DECISIONS AS TO THE CHILD'S CARE, WELFARE, EDUCATION, PHYSICAL
12 AND MENTAL HEALTH, AND THE RIGHT TO PURSUE SUPPORT.

13 COMMITTEE NOTE: This definition was added to allow concise reference to
14 this type of custodianship.

15 (P) "LOCAL DEPARTMENT" MEANS THE LOCAL DEPARTMENT OF SOCIAL
16 SERVICES FOR THE COUNTY IN WHICH THE COURT IS LOCATED.

17 COMMITTEE NOTE: This definition was derived from former CJ § 3-801(p).

18 (Q) (1) "MENTAL DISORDER" MEANS A BEHAVIORAL OR EMOTIONAL
19 ILLNESS THAT RESULTS FROM A PSYCHIATRIC OR NEUROLOGICAL DISORDER.

20 (2) "MENTAL DISORDER" INCLUDES A MENTAL ILLNESS THAT SO
21 SUBSTANTIALLY IMPAIRS THE MENTAL OR EMOTIONAL FUNCTIONING OF AN
22 INDIVIDUAL AS TO MAKE CARE OR TREATMENT NECESSARY OR ADVISABLE FOR THE
23 WELFARE OF THE INDIVIDUAL OR FOR THE SAFETY OF THE PERSON OR PROPERTY
24 OF ANOTHER.

25 (3) "MENTAL DISORDER" DOES NOT INCLUDE MENTAL RETARDATION.

26 COMMITTEE NOTE: This definition was added to coincide with the definition
27 in HG § 10-101.

28 (R) "MENTAL INJURY" MEANS THE OBSERVABLE, IDENTIFIABLE, AND
29 SUBSTANTIAL IMPAIRMENT OF A CHILD'S MENTAL OR PSYCHOLOGICAL ABILITY TO
30 FUNCTION.

31 COMMITTEE NOTE: This definition was added to coincide with the definition
32 in FL § 5-701 and reflects practice in this area of law.

33 (S) "NEGLECT" MEANS THE LEAVING OF A CHILD UNATTENDED OR OTHER
34 FAILURE TO GIVE PROPER CARE AND ATTENTION TO A CHILD BY ANY PARENT OR
35 INDIVIDUAL WHO HAS PERMANENT OR TEMPORARY CARE OR CUSTODY OR
36 RESPONSIBILITY FOR SUPERVISION OF THE CHILD UNDER CIRCUMSTANCES THAT
37 INDICATE:

1 (1) THAT THE CHILD'S HEALTH OR WELFARE IS HARMED OR PLACED AT
2 SUBSTANTIAL RISK OF HARM; OR

3 (2) THAT THE CHILD HAS SUFFERED MENTAL INJURY OR BEEN PLACED
4 AT SUBSTANTIAL RISK OF MENTAL INJURY.

5 COMMITTEE NOTE: This definition was added to coincide with the definition
6 in FL § 5-701 and reflects practice in this area of law.

7 The word "individual" was used instead of "person", to make clear that
8 corporations and other entities are not encompassed.

9 (T) "PARENT" MEANS A NATURAL OR ADOPTIVE PARENT WHOSE PARENTAL
10 RIGHTS HAVE NOT BEEN TERMINATED.

11 COMMITTEE NOTE: This definition was added for clarity.

12 (U) (1) "PARTY" MEANS:

13 (I) A CHILD WHO IS THE SUBJECT OF A PETITION;

14 (II) THE CHILD'S PARENT, GUARDIAN, OR CUSTODIAN;

15 (III) THE PETITIONER; OR

16 (IV) AN ADULT WHO IS CHARGED UNDER § 3-828 OF THIS SUBTITLE.

17 (2) "PARTY" DOES NOT INCLUDE A FOSTER PARENT.

18 COMMITTEE NOTE: Paragraph (1) of this subsection was derived from the
19 portion of former CJ § 3-801(r) applicable to CINA proceedings.

20 Paragraph (2) of this subsection was added for clarity as a court does not
21 award custody to a foster parent.

22 (V) (1) "SEXUAL ABUSE" MEANS AN ACT THAT INVOLVES SEXUAL
23 MOLESTATION OR SEXUAL EXPLOITATION OF A CHILD BY:

24 (I) A PARENT OR OTHER INDIVIDUAL WHO HAS PERMANENT OR
25 TEMPORARY CARE OR CUSTODY OR RESPONSIBILITY FOR SUPERVISION OF THE
26 CHILD; OR

27 (II) A HOUSEHOLD OR FAMILY MEMBER.

28 (2) "SEXUAL ABUSE" INCLUDES:

29 (I) INCEST;

30 (II) RAPE;

31 (III) SEXUAL OFFENSE IN ANY DEGREE;

1 (IV) SODOMY; AND

2 (V) UNNATURAL OR PERVERTED SEXUAL PRACTICES.

3 COMMITTEE NOTE: This definition was added for clarity and is consistent
4 with the definition in FL § 5-701.

5 The word "individual" was used instead of "person", to make clear that
6 corporations and other entities are not encompassed.

7 (W) "SHELTER CARE" MEANS A TEMPORARY PLACEMENT OF A CHILD OUTSIDE
8 OF THE HOME AT ANY TIME BEFORE DISPOSITION.

9 COMMITTEE NOTE: This definition was derived from the portion of former
10 CJ § 3-801(s) applicable to CINAs and was revised to reflect practice in
11 this area of law.

12 (X) "SHELTER CARE HEARING" MEANS A HEARING HELD BEFORE
13 DISPOSITION TO DETERMINE WHETHER THE TEMPORARY PLACEMENT OF THE
14 CHILD OUTSIDE OF THE HOME IS WARRANTED.

15 COMMITTEE NOTE: This definition was added for clarity.

16 (Y) "TPR PROCEEDING" MEANS A PROCEEDING TO TERMINATE PARENTAL
17 RIGHTS.

18 COMMITTEE NOTE: This definition was added to allow concise reference to
19 termination proceedings and coincides with the terminology used in
20 practice.

21 3-801.1.

22 IF GUARDIANSHIP OF A CHILD IS AWARDED UNDER THIS SUBTITLE, THE
23 GUARDIAN SHALL NOTIFY THE PARENTS OF THE CHILD AS SOON AS PRACTICABLE
24 OF ANY EMERGENCY DECISION MADE BY THE GUARDIAN WITH RESPECT TO THE
25 CHILD UNDER § 3-801(O) OF THIS SUBTITLE.

26 3-801.2.

27 A CHILD MAY NOT BE DEEMED TO BE A CHILD IN NEED OF ASSISTANCE FOR
28 THE SOLE REASON THAT THE CHILD IS BEING FURNISHED NONMEDICAL REMEDIAL
29 CARE AND TREATMENT RECOGNIZED BY STATE LAW.

30 3-802.

31 (A) THE PURPOSES OF THIS SUBTITLE ARE:

32 (1) TO PROVIDE FOR THE CARE, PROTECTION, SAFETY, AND MENTAL
33 AND PHYSICAL DEVELOPMENT OF ANY CHILD COMING WITHIN THE PROVISIONS OF
34 THIS SUBTITLE;

1 (2) TO PROVIDE FOR A PROGRAM OF SERVICES AND TREATMENT
2 CONSISTENT WITH THE CHILD'S BEST INTERESTS AND THE PROMOTION OF THE
3 PUBLIC INTEREST;

4 (3) TO CONSERVE AND STRENGTHEN THE CHILD'S FAMILY TIES AND TO
5 SEPARATE A CHILD FROM THE CHILD'S PARENTS ONLY WHEN NECESSARY FOR THE
6 CHILD'S WELFARE;

7 (4) TO HOLD PARENTS OF CHILDREN FOUND TO BE IN NEED OF
8 ASSISTANCE RESPONSIBLE FOR REMEDYING THE CIRCUMSTANCES THAT REQUIRED
9 THE COURT'S INTERVENTION;

10 (5) EXCEPT AS OTHERWISE PROVIDED BY LAW, TO HOLD THE LOCAL
11 DEPARTMENT OF SOCIAL SERVICES RESPONSIBLE FOR PROVIDING SERVICES TO
12 ASSIST THE PARENTS WITH REMEDYING THE CIRCUMSTANCES THAT REQUIRED THE
13 COURT'S INTERVENTION;

14 (6) IF NECESSARY TO REMOVE A CHILD FROM THE CHILD'S HOME, TO
15 SECURE FOR THE CHILD CUSTODY, CARE, AND DISCIPLINE AS NEARLY AS POSSIBLE
16 EQUIVALENT TO THAT WHICH THE CHILD'S PARENTS SHOULD HAVE GIVEN;

17 (7) TO ACHIEVE A TIMELY, PERMANENT PLACEMENT FOR THE CHILD
18 CONSISTENT WITH THE CHILD'S BEST INTERESTS; AND

19 (8) TO PROVIDE JUDICIAL PROCEDURES FOR CARRYING OUT THE
20 PROVISIONS OF THIS SUBTITLE.

21 (B) THIS SUBTITLE SHALL BE CONSTRUED LIBERALLY TO EFFECTUATE
22 THESE PURPOSES.

23 COMMITTEE NOTE: This section was derived from the portion of former CJ §
24 3-802 applicable to CINAs and was revised for clarity.

25 3-803.

26 (A) IN ADDITION TO THE JURISDICTION SPECIFIED IN SUBTITLE 8A OF THIS
27 TITLE, THE COURT HAS EXCLUSIVE ORIGINAL JURISDICTION OVER:

28 (1) PROCEEDINGS ARISING FROM A PETITION ALLEGING THAT A CHILD
29 IS A CINA;

30 (2) PROCEEDINGS ARISING UNDER THE INTERSTATE COMPACT ON THE
31 PLACEMENT OF CHILDREN;

32 (3) PROCEEDINGS TO TERMINATE PARENTAL RIGHTS AFTER A CINA
33 PROCEEDING;

34 (4) GUARDIANSHIP REVIEW PROCEEDINGS AFTER A TPR PROCEEDING;
35 AND

36 (5) ADOPTION PROCEEDINGS, IF ANY, AFTER A TPR PROCEEDING.

1 (B) (1) THE COURT HAS CONCURRENT JURISDICTION OVER:

2 (I) CUSTODY, VISITATION, SUPPORT, AND PATERNITY OF A CHILD
3 WHOM THE COURT FINDS TO BE A CINA; AND

4 (II) CUSTODY OF A CHILD ALLEGED TO BE A CINA UNDER THE
5 CIRCUMSTANCES DESCRIBED IN § 3-819(D) OF THIS SUBTITLE.

6 (2) DURING PENDENCY OF AN ACTION UNDER THIS SUBTITLE, A PARTY
7 HAS A CONTINUING DUTY TO ADVISE THE COURT AND ANY OTHER COURT
8 CONSIDERING CUSTODY, SUPPORT, VISITATION, OR PATERNITY OF A CHILD, OF THE
9 PENDENCY OF ANY OTHER ACTION CONCERNING THE CHILD, WHETHER THE ACTION
10 IS IN THIS OR ANOTHER STATE.

11 (3) (I) THE COURT MAY DECLINE TO EXERCISE JURISDICTION UNDER
12 THIS SUBSECTION IF THERE IS A PROCEEDING PENDING IN ANOTHER COURT OF
13 COMPETENT JURISDICTION.

14 (II) IF THE COURT AND ANOTHER COURT BOTH HAVE PENDING
15 ACTIONS INVOLVING A CHILD DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION,
16 THE COURT SHALL COMMUNICATE WITH THE OTHER COURT EXPEDITIOUSLY TO
17 DETERMINE THE MORE APPROPRIATE COURT TO TAKE FURTHER ACTION,
18 CONSISTENT WITH THE BEST INTEREST OF THE CHILD.

19 (III) THE COURT SHALL ADVISE THE PARTIES OF THE DECISION AND
20 THE BASIS FOR THE DECISION.

21 (C) (1) THE COURT HAS CONCURRENT JURISDICTION OVER PROCEEDINGS
22 AGAINST AN ADULT FOR A VIOLATION OF § 3-828 OF THIS SUBTITLE.

23 (2) (I) THE COURT MAY WAIVE ITS JURISDICTION UNDER THIS
24 SUBSECTION ON ITS OWN MOTION OR ON THE MOTION OF ANY PARTY TO THE
25 PROCEEDING, IF CHARGES AGAINST THE ADULT ARISING FROM THE SAME INCIDENT
26 ARE PENDING IN THE CRIMINAL COURT.

27 (II) ON MOTION BY THE STATE'S ATTORNEY OR THE ADULT
28 CHARGED UNDER § 3-828 OF THIS SUBTITLE, THE COURT SHALL WAIVE ITS
29 JURISDICTION AND THE ADULT SHALL BE TRIED IN THE CRIMINAL COURT
30 ACCORDING TO THE USUAL CRIMINAL PROCEDURE.

31 (3) THE AGE OF THE CHILD AT THE TIME A PETITION IS FILED UNDER §
32 3-828 OF THIS SUBTITLE CONTROLS THE DETERMINATION OF JURISDICTION UNDER
33 THIS SUBSECTION.

34 COMMITTEE NOTE: Subsection (a) of this section was derived from former
35 CJ § 3-804(a)(2) and expanded.

36 Subsection (b) of this section is new.

37 Subsection (c) of this section was derived from former CJ §§ 3-804(c) and

1 3-805(b).

2 3-804.

3 (A) THE COURT HAS JURISDICTION UNDER THIS SUBTITLE ONLY IF THE
4 ALLEGED CINA IS UNDER THE AGE OF 18 YEARS WHEN THE PETITION IS FILED.

5 (B) IF THE COURT OBTAINS JURISDICTION OVER A CHILD, THAT
6 JURISDICTION CONTINUES IN THAT CASE UNTIL THE CHILD REACHES THE AGE OF 21
7 YEARS, UNLESS THE COURT TERMINATES THE CASE.

8 (C) AFTER THE COURT TERMINATES JURISDICTION, A CUSTODY ORDER
9 ISSUED BY THE COURT IN A CINA CASE:

10 (1) REMAINS IN EFFECT; AND

11 (2) MAY BE REVISED OR SUPERSEDED ONLY BY ANOTHER COURT OF
12 COMPETENT JURISDICTION.

13 COMMITTEE NOTE: The Committee combined former CJ §§ 3-805(b) and
14 3-806(a) and (d).

15 3-805.

16 (A) A PETITION ALLEGING THAT A CHILD IS A CINA SHALL BE FILED IN THE
17 COUNTY WHERE:

18 (1) THE CHILD IS RESIDING WHEN THE PETITION IS FILED; OR

19 (2) THE ACT ON WHICH THE PETITION IS BASED ALLEGEDLY
20 OCCURRED.

21 (B) (1) WHENEVER A PETITION IS FILED OTHER THAN IN THE COUNTY
22 WHERE THE CHILD RESIDES, THE COURT, ON ITS OWN MOTION OR ON MOTION OF A
23 PARTY, MAY TRANSFER THE CASE AT ANY TIME TO ANY APPROPRIATE COUNTY,
24 INCLUDING A COUNTY WHERE:

25 (I) ANOTHER CASE INVOLVING CUSTODY, VISITATION, OR
26 SUPPORT OF THE CHILD IS PENDING;

27 (II) THE CHILD RESIDES;

28 (III) A PARENT OF THE CHILD RESIDES; OR

29 (IV) THE COURT DETERMINES IT IS IN THE CHILD'S BEST
30 INTERESTS FOR FURTHER PROCEEDINGS CONCERNING THE CHILD TO TAKE PLACE.

31 (2) (I) BEFORE THE COURT TRANSFERS A CASE TO ANOTHER COURT
32 IN THE STATE, THE COURT SHALL COMMUNICATE WITH THE JUVENILE JUDGE OF
33 THE OTHER COURT OR THE JUDGE'S DESIGNEE.

1 (II) THE COURT SHALL ADVISE THE PARTIES OF THE DECISION
2 MADE TO TRANSFER THE CASE AND THE BASIS FOR THE DECISION.

3 (3) BEFORE THE COURT TRANSFERS A CASE TO A COURT OUTSIDE THE
4 STATE, THE COURT SHALL COMMUNICATE WITH THE OTHER COURT IN ACCORDANCE
5 WITH THE MARYLAND UNIFORM CHILD CUSTODY JURISDICTION ACT.

6 (4) (I) WITHIN 15 DAYS AFTER THE COURT ORDERS A TRANSFER, THE
7 CLERK OF THE SENDING COURT SHALL FORWARD TO THE RECEIVING COURT EVERY
8 DOCUMENT ON FILE WITH THE SENDING COURT.

9 (II) IF A CASE IS TRANSFERRED TO ANOTHER COURT IN THIS
10 STATE, THE RECEIVING COURT SHALL TREAT THE CASE AS IF IT HAD BEEN FILED
11 WITH THAT COURT INITIALLY AND SHALL SET HEARING DATES AS CLOSE AS
12 PRACTICABLE TO THOSE SET FORTH IN ANY PENDING ORDERS ISSUED BY THE
13 SENDING COURT.

14 (C) IF INFORMATION ABOUT A CHILD IS ALLEGED TO BE AVAILABLE IN
15 ANOTHER JURISDICTION IN OR OUTSIDE OF THIS STATE, THE COURT, ON ITS OWN
16 MOTION OR ON MOTION OF A PARTY, MAY USE THE PROVISIONS OF THE MARYLAND
17 UNIFORM CHILD CUSTODY JURISDICTION ACT TO OBTAIN THAT INFORMATION.

18 COMMITTEE NOTE: Subsection (a)(1) of this section was derived from former
19 CJ § 3-808(a).

20 Subsection (a)(2) of this section is new language added to state expressly
21 that a petition can be filed in a county where the act on which the petition
22 is based allegedly occurred.

23 Subsections (b) and (c) of this section were derived from former CJ §
24 3-809(a)(1) and (b) and have new language added to clarify the process of
25 transferring cases in- and out-of-state.

26 3-806.

27 (A) (1) IN EVERY COUNTY, ONE OR MORE JUDGES SHALL BE ASSIGNED
28 SPECIALLY TO HANDLE CASES ARISING UNDER THIS SUBTITLE AND SUBTITLE 8A OF
29 THIS TITLE.

30 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE
31 ASSIGNMENT SHALL BE MADE BY THE CIRCUIT ADMINISTRATIVE JUDGE, SUBJECT
32 TO THE APPROVAL OF THE CHIEF JUDGE OF THE COURT OF APPEALS.

33 (3) IN MONTGOMERY COUNTY, THE ASSIGNMENT SHALL BE MADE BY
34 THE CHIEF JUDGE OF THE DISTRICT COURT, SUBJECT TO THE APPROVAL OF THE
35 CHIEF JUDGE OF THE COURT OF APPEALS.

36 (4) THE JUDGES SO ASSIGNED ARE NOT SUBJECT TO AN AUTOMATIC
37 REGULAR ROTATION.

1 (B) TO THE EXTENT FEASIBLE, THE JUDGES ASSIGNED UNDER THIS SECTION
2 SHALL:

3 (1) DESIRE TO BE SO ASSIGNED;

4 (2) HAVE THE TEMPERAMENT NECESSARY TO DEAL PROPERLY WITH
5 THE CASES AND CHILDREN LIKELY TO COME BEFORE THE COURT; AND

6 (3) HAVE SPECIAL EXPERIENCE OR TRAINING IN JUVENILE CAUSES AND
7 THE PROBLEMS OF CHILDREN LIKELY TO COME BEFORE THE COURT.

8 COMMITTEE NOTE: This section was derived from former CJ § 3-803 and
9 was revised to require assignment of juvenile court judges in every county.

10 3-807.

11 (A) (1) THE JUDGES OF A CIRCUIT COURT MAY NOT APPOINT A MASTER FOR
12 JUVENILE CAUSES ARISING UNDER THIS SUBTITLE AND SUBTITLE 8A OF THIS TITLE
13 UNLESS THE APPOINTMENT AND THE APPOINTEE ARE APPROVED BY THE CHIEF
14 JUDGE OF THE COURT OF APPEALS.

15 (2) THE STANDARDS EXPRESSED IN § 3-806(B) OF THIS SUBTITLE, WITH
16 RESPECT TO THE ASSIGNMENT OF JUDGES, ARE APPLICABLE TO THE APPOINTMENT
17 OF MASTERS.

18 (3) A MASTER, AT THE TIME OF APPOINTMENT AND AT ALL TIMES WHILE
19 SERVING AS A MASTER, SHALL BE A MEMBER IN GOOD STANDING OF THE MARYLAND
20 BAR.

21 (4) (I) IN PRINCE GEORGE'S COUNTY, THE JUDGES OF THE CIRCUIT
22 COURT MAY NOT APPOINT OR CONTINUE THE APPOINTMENT OF MASTERS FOR
23 JUVENILE CAUSES, EXCEPT FOR THE PURPOSE OF CONDUCTING:

24 1. PROBABLE CAUSE HEARINGS, DETENTION HEARINGS,
25 ARRAIGNMENTS, ACCEPTANCES OF ADMISSIONS, AND RESTITUTION HEARINGS IN
26 DELINQUENCY CASES UNDER SUBTITLE 8A OF THIS TITLE; AND

27 2. SHELTER CARE, ADJUDICATION, AND DISPOSITION
28 HEARINGS IN CINA CASES UNDER THIS SUBTITLE.

29 (II) A MASTER IN PRINCE GEORGE'S COUNTY MAY NOT CONDUCT:

30 1. AN ADJUDICATORY HEARING IN DELINQUENCY CASES
31 UNDER SUBTITLE 8A OF THIS TITLE, UNLESS THE ADJUDICATORY HEARING IS
32 LIMITED TO THE ACCEPTANCE OF AN ADMISSION;

33 2. A DISPOSITION HEARING IN DELINQUENCY CASES UNDER
34 SUBTITLE 8A OF THIS TITLE; OR

35 3. A PEACE ORDER PROCEEDING UNDER SUBTITLE 8A OF
36 THIS TITLE.

1 (B) (1) A MASTER APPOINTED FOR JUVENILE CAUSES MAY CONDUCT
2 HEARINGS.

3 (2) EACH PROCEEDING SHALL BE RECORDED, AND THE MASTER SHALL
4 MAKE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATIONS AS TO
5 AN APPROPRIATE ORDER.

6 (3) THE PROPOSALS AND RECOMMENDATIONS SHALL BE IN WRITING,
7 AND, WITHIN 10 DAYS AFTER THE HEARING, THE ORIGINAL SHALL BE FILED WITH
8 THE COURT AND A COPY SERVED ON EACH PARTY TO THE PROCEEDING.

9 (C) (1) ANY PARTY, IN ACCORDANCE WITH THE MARYLAND RULES, MAY
10 FILE WRITTEN EXCEPTIONS TO ANY OR ALL OF THE MASTER'S FINDINGS,
11 CONCLUSIONS, AND RECOMMENDATIONS, BUT SHALL SPECIFY THOSE ITEMS TO
12 WHICH THE PARTY OBJECTS.

13 (2) THE PARTY WHO FILES EXCEPTIONS MAY ELECT A HEARING DE
14 NOVO OR A HEARING ON THE RECORD BEFORE THE COURT UNLESS THE PARTY IS
15 THE STATE IN PROCEEDINGS INVOLVING JUVENILE DELINQUENCY UNDER
16 SUBTITLE 8A OF THIS TITLE.

17 (3) IF THE STATE IS THE EXCEPTING PARTY IN PROCEEDINGS
18 INVOLVING JUVENILE DELINQUENCY, THE HEARING SHALL BE ON THE RECORD,
19 SUPPLEMENTED BY ADDITIONAL EVIDENCE AS THE JUDGE CONSIDERS RELEVANT
20 AND TO WHICH THE PARTIES RAISE NO OBJECTION.

21 (4) IN EITHER CASE, THE HEARING SHALL BE LIMITED TO THOSE
22 MATTERS TO WHICH EXCEPTIONS HAVE BEEN TAKEN.

23 (D) (1) THE PROPOSALS AND RECOMMENDATIONS OF A MASTER FOR
24 JUVENILE CAUSES DO NOT CONSTITUTE ORDERS OR FINAL ACTION OF THE COURT.

25 (2) THE PROPOSALS AND RECOMMENDATIONS SHALL BE PROMPTLY
26 REVIEWED BY THE COURT, AND, IN THE ABSENCE OF TIMELY AND PROPER
27 EXCEPTIONS, THEY MAY BE ADOPTED BY THE COURT AND APPROPRIATE ORDERS
28 ENTERED BASED ON THEM.

29 (3) DETENTION OR SHELTER CARE MAY BE ORDERED BY A MASTER
30 PENDING COURT REVIEW OF THE MASTER'S FINDINGS, CONCLUSIONS, AND
31 RECOMMENDATIONS.

32 (E) IF THE COURT, ON ITS OWN MOTION AND IN THE ABSENCE OF TIMELY
33 AND PROPER EXCEPTIONS, DECIDES NOT TO ADOPT THE MASTER'S FINDINGS,
34 CONCLUSIONS, AND RECOMMENDATIONS, OR ANY OF THEM, THE COURT SHALL
35 CONDUCT A DE NOVO HEARING, UNLESS ALL PARTIES AND THE COURT AGREE TO A
36 HEARING ON THE RECORD.

37 COMMITTEE NOTE: This section was derived from former CJ § 3-813.

1 3-808.

2 (A) THE COURT SHALL TRY CASES UNDER THIS SUBTITLE WITHOUT A JURY.

3 (B) WHILE SITTING AS THE JUVENILE COURT, THE DISTRICT COURT IN
4 MONTGOMERY COUNTY SHALL FOLLOW THE APPLICABLE RULES OF A CIRCUIT
5 COURT SITTING AS THE JUVENILE COURT.

6 (C) FOR PURPOSES OF TITLE 12 OF THIS ARTICLE, AN ACTION, DECISION,
7 ORDER, OR JUDGMENT OF THE DISTRICT COURT IN MONTGOMERY COUNTY SITTING
8 AS A JUVENILE COURT SHALL BE TREATED IN THE SAME MANNER AS IF IT HAD BEEN
9 MADE, DONE, OR ENTERED BY A CIRCUIT COURT.

10 COMMITTEE NOTE: Subsection (a) of this section was derived from former
11 CJ § 3-812(f).

12 Subsection (b) of this section was derived from former CJ § 3-801(i) and
13 restated as a substantive provision.

14 Subsection (c) of this section was derived from former CJ § 3-832.

15 3-809.

16 (A) ON RECEIPT OF A COMPLAINT FROM A PERSON OR AGENCY HAVING
17 KNOWLEDGE OF FACTS WHICH MAY CAUSE A CHILD TO BE SUBJECT TO THE
18 JURISDICTION OF THE COURT UNDER THIS SUBTITLE, THE LOCAL DEPARTMENT
19 SHALL FILE A PETITION UNDER THIS SUBTITLE IF IT CONCLUDES THAT THE COURT
20 HAS JURISDICTION OVER THE MATTER AND THAT THE FILING OF A PETITION IS IN
21 THE BEST INTERESTS OF THE CHILD.

22 (B) WITHIN 5 DAYS AFTER REACHING A DECISION NOT TO FILE A PETITION,
23 THE LOCAL DEPARTMENT SHALL INFORM IN WRITING THE FOLLOWING PERSONS OF
24 THE DECISION AND THE REASONS FOR THE DECISION:

25 (1) A CHILD OVER THE AGE OF 10 WHO WOULD HAVE BEEN THE
26 SUBJECT OF THE PETITION, IF APPROPRIATE;

27 (2) THE PARENT, GUARDIAN, OR CUSTODIAN OF THE CHILD WHO
28 WOULD HAVE BEEN THE SUBJECT OF THE PETITION; AND

29 (3) EACH PERSON OR AGENCY THAT REQUESTED THAT A PETITION BE
30 FILED.

31 (C) WITHIN 15 DAYS AFTER NOTICE THAT A LOCAL DEPARTMENT HAS
32 DECIDED NOT TO FILE A PETITION, THE PERSON OR AGENCY THAT REQUESTED THAT
33 A PETITION BE FILED MAY REQUEST REVIEW BY THE SECRETARY OF HUMAN
34 RESOURCES.

35 (D) WITHIN 15 DAYS AFTER A REQUEST FOR REVIEW IS RECEIVED, THE
36 SECRETARY OF HUMAN RESOURCES OR THE SECRETARY'S DESIGNEE, IN

1 CONSULTATION WITH THE DIRECTOR OF THE LOCAL DEPARTMENT, SHALL REVIEW
2 THE REPORT AND MAY DIRECT THE LOCAL DEPARTMENT TO FILE A PETITION
3 WITHIN 5 DAYS.

4 (E) IF THE SECRETARY OF HUMAN RESOURCES OR THE SECRETARY'S
5 DESIGNEE REFUSES TO DIRECT THE LOCAL DEPARTMENT TO FILE A PETITION, THE
6 PERSON OR AGENCY THAT FILED THE COMPLAINT UNDER SUBSECTION (A) OF THIS
7 SECTION OR CAUSED IT TO BE FILED MAY FILE THE PETITION.

8 COMMITTEE NOTE: This section was derived from former CJ § 3-810(b), (d),
9 and (j). The Committee added new language to outline specifically the
10 procedures for the filing of a petition. This section divests the Department
11 of Juvenile Justice of its authority to file a CINA petition and to review
12 decisions not to file CINA petitions.

13 3-810.

14 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE MARYLAND
15 RULES GOVERN THE FORMAT OF A PETITION AND OF OTHER PLEADINGS AND THE
16 PROCEDURES TO BE FOLLOWED BY THE COURT AND PARTIES UNDER THIS SUBTITLE.

17 (B) (1) IN ANY PROCEEDING IN WHICH A CHILD IS ALLEGED TO BE IN NEED
18 OF ASSISTANCE, THE COURT MAY EXCLUDE THE GENERAL PUBLIC FROM A HEARING
19 AND ADMIT ONLY THOSE PERSONS HAVING A DIRECT INTEREST IN THE PROCEEDING
20 AND THEIR REPRESENTATIVES.

21 (2) THE COURT SHALL EXCLUDE THE GENERAL PUBLIC FROM A
22 HEARING WHERE THE PROCEEDINGS INVOLVE DISCUSSION OF CONFIDENTIAL
23 INFORMATION FROM THE CHILD ABUSE AND NEGLECT REPORT AND RECORD, OR
24 ANY INFORMATION OBTAINED FROM THE CHILD WELFARE AGENCY CONCERNING A
25 CHILD OR FAMILY WHO IS RECEIVING TITLE IV-B CHILD WELFARE SERVICES OR
26 TITLE IV-E FOSTER CARE OR ADOPTION ASSISTANCE.

27 (C) THE CLERK OF THE COURT SHALL MAKE A SEPARATE FILE FOR EACH
28 CASE.

29 COMMITTEE NOTE: Subsections (a) and (b)(1) of this section were derived
30 from former CJ § 3-812(c) and (e)(2).

31 The purpose of adding subsection (b)(2) of this section is to ensure
32 compliance with the federal Child Abuse Prevention and Treatment Act
33 (CAPTA) Title IV-B and Title IV-E. These provisions do allow disclosure of
34 such information in cases of child abuse and neglect that result in death or
35 near death of a child.

36 Subsection (c) of this section was added to allow more consistent and
37 reliable statistical records.

1 3-811.

2 (A) A PETITION UNDER THIS SUBTITLE SHALL ALLEGE THAT A CHILD IS IN
3 NEED OF ASSISTANCE AND SHALL SET FORTH IN CLEAR AND SIMPLE LANGUAGE THE
4 FACTS SUPPORTING THAT ALLEGATION.

5 (B) A SEPARATE PETITION SHALL BE FILED AS TO EACH CHILD.

6 COMMITTEE NOTE: Subsection (a) of this section was derived from former
7 CJ § 3-812.

8 Subsection (b) of this section was added. The filing of separate petitions
9 does not prevent the current practice in many jurisdictions of scheduling
10 sibling hearings at the same time.

11 3-812.

12 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
13 INDICATED, UNLESS THE CONTEXT OF THEIR USE INDICATES OTHERWISE.

14 (2) "CRIME OF VIOLENCE" HAS THE MEANING STATED IN ARTICLE 27, §
15 643B OF THE CODE.

16 (3) "TORTURE" MEANS TO CAUSE INTENSE PAIN TO BODY OR MIND FOR
17 PURPOSES OF PUNISHMENT OR EXTRACTION OF INFORMATION OR FOR SADISTIC
18 PURPOSES.

19 (B) IN A PETITION UNDER THIS SUBTITLE, A LOCAL DEPARTMENT MAY ASK
20 THE COURT TO FIND THAT REASONABLE EFFORTS TO REUNIFY A CHILD WITH THE
21 CHILD'S NATURAL PARENT OR GUARDIAN ARE NOT REQUIRED IF THE LOCAL
22 DEPARTMENT CONCLUDES THAT A NATURAL PARENT OR GUARDIAN HAS:

23 (1) SUBJECTED THE CHILD TO:

24 (I) CHRONIC ABUSE;

25 (II) CHRONIC AND LIFE-THREATENING NEGLECT;

26 (III) SEXUAL ABUSE; OR

27 (IV) TORTURE;

28 (2) BEEN CONVICTED:

29 (I) IN THIS STATE OF A CRIME OF VIOLENCE AGAINST THE CHILD,
30 THE OTHER NATURAL PARENT OF THE CHILD, ANOTHER CHILD OF THE NATURAL
31 PARENT, OR ANY INDIVIDUAL WHO RESIDES IN THE HOUSEHOLD OF THE NATURAL
32 PARENT;

33 (II) IN ANY STATE OR IN ANY COURT OF THE UNITED STATES OF A
34 CRIME THAT WOULD BE A CRIME OF VIOLENCE IF COMMITTED IN THIS STATE,

1 AGAINST THE CHILD, THE OTHER NATURAL PARENT OF THE CHILD, ANOTHER CHILD
2 OF THE NATURAL PARENT, OR ANY INDIVIDUAL WHO RESIDES IN THE HOUSEHOLD
3 OF THE NATURAL PARENT; OR

4 (III) OF AIDING OR ABETTING, CONSPIRING, OR SOLICITING TO
5 COMMIT A CRIME DESCRIBED IN SUBITEM (I) OR (II) OF THIS ITEM; OR

6 (3) INVOLUNTARILY LOST PARENTAL RIGHTS OF A SIBLING OF A CHILD.

7 (C) IF THE LOCAL DEPARTMENT DETERMINES AFTER THE INITIAL PETITION
8 IS FILED THAT ANY OF THE CIRCUMSTANCES SPECIFIED IN SUBSECTION (B) OF THIS
9 SECTION EXISTS, THE LOCAL DEPARTMENT MAY IMMEDIATELY REQUEST THE
10 COURT TO FIND THAT REASONABLE EFFORTS TO REUNIFY THE CHILD WITH THE
11 CHILD'S PARENT OR GUARDIAN ARE NOT REQUIRED.

12 (D) IF THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT ANY
13 OF THE CIRCUMSTANCES SPECIFIED IN SUBSECTION (B) OF THIS SECTION EXISTS,
14 THE COURT SHALL WAIVE THE REQUIREMENT THAT REASONABLE EFFORTS BE
15 MADE TO REUNIFY THE CHILD WITH THE CHILD'S NATURAL PARENT OR GUARDIAN.

16 (E) IF THE COURT FINDS THAT REASONABLE EFFORTS ARE NOT REQUIRED,
17 THE LOCAL DEPARTMENT SHALL:

18 (1) REQUEST THAT A PERMANENCY PLANNING HEARING BE HELD IN
19 ACCORDANCE WITH § 3-823 OF THIS SUBTITLE WITHIN 30 DAYS AFTER THE COURT
20 MAKES THE FINDING; AND

21 (2) MAKE REASONABLE EFFORTS TO PLACE THE CHILD IN A TIMELY
22 MANNER IN ACCORDANCE WITH THE PERMANENCY PLAN AND COMPLETE THE
23 STEPS NECESSARY TO FINALIZE THE PERMANENT PLACEMENT OF THE CHILD.

24 COMMITTEE NOTE: This section was derived from former CJ § 3-812.1. New
25 language and definitions were added to clarify Chapter 539 (HB 1093),
26 Acts of 1998.

27 3-813.

28 (A) EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS SECTION, A
29 PARTY IS ENTITLED TO THE ASSISTANCE OF COUNSEL AT EVERY STAGE OF ANY
30 PROCEEDING UNDER THIS SUBTITLE.

31 (B) EXCEPT FOR THE LOCAL DEPARTMENT AND THE CHILD WHO IS THE
32 SUBJECT OF THE PETITION, A PARTY IS NOT ENTITLED TO THE ASSISTANCE OF
33 COUNSEL AT STATE EXPENSE UNLESS THE PARTY IS:

34 (1) INDIGENT; OR

35 (2) OTHERWISE NOT REPRESENTED AND:

36 (I) UNDER THE AGE OF 18 YEARS; OR

1 (II) INCOMPETENT BY REASON OF MENTAL DISABILITY.

2 (C) THE OFFICE OF THE PUBLIC DEFENDER MAY NOT REPRESENT A PARTY IN
3 A CINA PROCEEDING UNLESS:

4 (1) THE PARTY IS THE CUSTODIAL PARENT OR LEGAL GUARDIAN OF THE
5 ALLEGED CINA;

6 (2) THE PROCEEDING IS:

7 (I) UNDER § 3-815, § 3-817, OR § 3-819 OF THIS SUBTITLE; OR

8 (II) UNDER MARYLAND RULE 11-115 OR MARYLAND RULE 11-116 IN
9 WHICH:

10 1. THE STATE HAS MOVED TO REMOVE THE CHILD FROM A
11 PARENT'S OR GUARDIAN'S CUSTODY OR THE PARENT OR GUARDIAN HAS MOVED TO
12 REGAIN CUSTODY; AND

13 2. DUE TO A COMPLEX FACTUAL OR LEGAL ISSUE,
14 ASSISTANCE OF COUNSEL IS NECESSARY TO ENSURE AGAINST A RISK OF
15 ERRONEOUS DEPRIVATION OF CUSTODY;

16 (3) THE PARTY APPLIES TO THE OFFICE OF THE PUBLIC DEFENDER
17 REQUESTING LEGAL REPRESENTATION BY THE PUBLIC DEFENDER IN THE
18 PROCEEDING; AND

19 (4) THE PARTY IS FINANCIALLY ELIGIBLE FOR THE SERVICES OF THE
20 PUBLIC DEFENDER.

21 (D) (1) A CHILD WHO IS THE SUBJECT OF A CINA PETITION SHALL BE
22 REPRESENTED BY COUNSEL.

23 (2) UNLESS THE COURT FINDS THAT IT WOULD NOT BE IN THE BEST
24 INTERESTS OF THE CHILD, THE COURT SHALL:

25 (I) APPOINT AN ATTORNEY WITH WHOM THE DEPARTMENT OF
26 HUMAN RESOURCES HAS CONTRACTED TO PROVIDE THOSE SERVICES, IN
27 ACCORDANCE WITH THE TERMS OF THE CONTRACT; AND

28 (II) IF ANOTHER ATTORNEY HAS PREVIOUSLY BEEN APPOINTED,
29 STRIKE THE APPEARANCE OF THAT ATTORNEY.

30 (E) IN ADDITION TO, BUT NOT INSTEAD OF, THE APPOINTMENT OF AN
31 ATTORNEY UNDER THIS SECTION, THE COURT, IN ANY ACTION, MAY APPOINT AN
32 INDIVIDUAL PROVIDED BY A COURT-APPOINTED SPECIAL ADVOCATE PROGRAM
33 CREATED UNDER § 3-830 OF THIS SUBTITLE.

34 (F) THE COURT MAY ASSESS AGAINST ANY PARTY REASONABLE
35 COMPENSATION FOR THE SERVICES OF AN ATTORNEY APPOINTED TO REPRESENT A
36 CHILD IN AN ACTION UNDER THIS SUBTITLE.

1 COMMITTEE NOTE: This section was derived from former CJ §§ 3-821 and
2 3-834(a)(2) and (c).

3 It is intent of the Committee that every child who is the subject of a CINA
4 petition is afforded an attorney in all stages of the CINA proceeding. The
5 court has no discretion as to whether or not to appoint an attorney for the
6 child.

7 Subsection (c), as set out here, reflects current law as set forth in former
8 CJ § 3-821(c). The Committee proposes, however, expansion of the role of
9 the Office of the Public Defender in representation of parents, contingent
10 on allocation of necessary funding. The Committee believes that all
11 indigent parents have a right to representation in CINA proceedings at
12 State expense. See Section 4 of this Act. This revision also eliminates the
13 ability of the OPD to represent a child in a CINA proceeding.

14 3-814.

15 (A) A CHILD MAY BE TAKEN INTO CUSTODY UNDER THIS SUBTITLE BY ANY OF
16 THE FOLLOWING METHODS:

17 (1) IN ACCORDANCE WITH AN ORDER OF THE COURT;

18 (2) IN ACCORDANCE WITH § 5-709 OF THE FAMILY LAW ARTICLE; OR

19 (3) BY A LAW ENFORCEMENT OFFICER IF THE OFFICER HAS
20 REASONABLE GROUNDS TO BELIEVE THAT THE CHILD IS IN IMMEDIATE DANGER
21 FROM THE CHILD'S SURROUNDINGS AND THAT THE CHILD'S REMOVAL IS NECESSARY
22 FOR THE CHILD'S PROTECTION.

23 (B) WHENEVER A LAW ENFORCEMENT OFFICER TAKES A CHILD INTO
24 CUSTODY UNDER THIS SECTION, THE OFFICER SHALL:

25 (1) IMMEDIATELY NOTIFY THE CHILD'S PARENT, GUARDIAN, OR
26 CUSTODIAN;

27 (2) IMMEDIATELY NOTIFY THE LOCAL DEPARTMENT; AND

28 (3) KEEP CUSTODY ONLY UNTIL THE LOCAL DEPARTMENT EITHER
29 TAKES CUSTODY UNDER § 3-815 OF THIS SUBTITLE OR AUTHORIZES RELEASE OF THE
30 CHILD UNLESS THE OFFICER DETERMINES THAT IT IS SAFE TO RETURN THE CHILD
31 TO THE CHILD'S PARENT, CUSTODIAN, OR GUARDIAN.

32 (C) (1) IF A PARENT, GUARDIAN, OR CUSTODIAN FAILS TO BRING THE CHILD
33 BEFORE THE COURT WHEN REQUESTED, THE COURT MAY ISSUE A WRIT OF
34 ATTACHMENT DIRECTING THAT THE CHILD BE TAKEN INTO CUSTODY AND BROUGHT
35 BEFORE THE COURT.

36 (2) THE COURT MAY PROCEED AGAINST THE PARENT, GUARDIAN, OR
37 CUSTODIAN FOR CONTEMPT.

1 COMMITTEE NOTE: This section was derived from former CJ § 3-814.

2 3-815.

3 (A) IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT OF
4 HUMAN RESOURCES, A LOCAL DEPARTMENT MAY AUTHORIZE SHELTER CARE FOR A
5 CHILD WHO MAY BE IN NEED OF ASSISTANCE AND HAS BEEN TAKEN INTO CUSTODY
6 UNDER THIS SUBTITLE.

7 (B) A LOCAL DEPARTMENT MAY PLACE A CHILD IN EMERGENCY SHELTER
8 CARE BEFORE A HEARING IF:

9 (1) PLACEMENT IS REQUIRED TO PROTECT THE CHILD FROM SERIOUS
10 IMMEDIATE DANGER;

11 (2) THERE IS NO PARENT, GUARDIAN, CUSTODIAN, OR OTHER PERSON
12 ABLE TO PROVIDE SUPERVISION; AND

13 (3) (I) 1. THE CHILD'S CONTINUED PLACEMENT IN THE CHILD'S
14 HOME IS CONTRARY TO THE WELFARE OF THE CHILD; AND

15 2. BECAUSE OF AN ALLEGED EMERGENCY SITUATION,
16 REMOVAL FROM THE HOME IS REASONABLE UNDER THE CIRCUMSTANCES TO
17 PROVIDE FOR THE SAFETY OF THE CHILD; OR

18 (II) 1. REASONABLE BUT UNSUCCESSFUL EFFORTS HAVE BEEN
19 MADE TO PREVENT OR ELIMINATE THE NEED FOR REMOVAL FROM THE CHILD'S
20 HOME; AND

21 2. AS APPROPRIATE, REASONABLE EFFORTS ARE BEING
22 MADE TO RETURN THE CHILD TO THE CHILD'S HOME.

23 (C) (1) WHENEVER A CHILD IS NOT RETURNED TO THE CHILD'S PARENT,
24 GUARDIAN, OR CUSTODIAN, THE LOCAL DEPARTMENT SHALL IMMEDIATELY FILE A
25 PETITION TO AUTHORIZE CONTINUED SHELTER CARE.

26 (2) (I) THE COURT SHALL HOLD A SHELTER CARE HEARING ON THE
27 PETITION BEFORE DISPOSITION TO DETERMINE WHETHER THE TEMPORARY
28 PLACEMENT OF THE CHILD OUTSIDE OF THE HOME IS WARRANTED.

29 (II) UNLESS EXTENDED ON GOOD CAUSE SHOWN, A SHELTER CARE
30 HEARING SHALL BE HELD NOT LATER THAN THE NEXT DAY ON WHICH THE CIRCUIT
31 COURT SITS OR, IN MONTGOMERY COUNTY, THE NEXT DAY ON WHICH THE DISTRICT
32 COURT SITS.

33 (3) IF THE CHILD'S PARENTS, GUARDIAN, OR CUSTODIAN CAN BE
34 LOCATED, REASONABLE NOTICE, ORAL OR WRITTEN, STATING THE TIME, PLACE, AND
35 PURPOSE OF THE SHELTER CARE HEARING SHALL BE GIVEN.

1 (4) A COURT MAY NOT ORDER SHELTER CARE FOR MORE THAN 30 DAYS
2 EXCEPT THAT SHELTER CARE MAY BE EXTENDED FOR UP TO AN ADDITIONAL 30
3 DAYS IF THE COURT FINDS AFTER A HEARING HELD AS PART OF AN ADJUDICATION
4 THAT CONTINUED SHELTER CARE IS NEEDED TO PROVIDE FOR THE SAFETY OF THE
5 CHILD.

6 (D) A COURT MAY CONTINUE SHELTER CARE BEYOND EMERGENCY SHELTER
7 CARE ONLY IF THE COURT FINDS THAT:

8 (1) RETURN OF THE CHILD TO THE CHILD'S HOME IS CONTRARY TO THE
9 SAFETY AND WELFARE OF THE CHILD; AND

10 (2) (I) REMOVAL OF THE CHILD FROM THE CHILD'S HOME IS
11 NECESSARY DUE TO AN ALLEGED EMERGENCY SITUATION AND IN ORDER TO
12 PROVIDE FOR THE SAFETY OF THE CHILD; OR

13 (II) REASONABLE BUT UNSUCCESSFUL EFFORTS WERE MADE TO
14 PREVENT OR ELIMINATE THE NEED FOR REMOVAL OF THE CHILD FROM THE HOME.

15 (E) (1) IF THE COURT CONTINUES SHELTER CARE ON THE BASIS OF AN
16 ALLEGED EMERGENCY, THE COURT SHALL ASSESS WHETHER THE ABSENCE OF
17 EFFORTS TO PREVENT REMOVAL WAS REASONABLE.

18 (2) IF THE COURT FINDS THAT THE ABSENCE OF EFFORTS TO PREVENT
19 REMOVAL WAS NOT REASONABLE, THE COURT SHALL MAKE A WRITTEN
20 DETERMINATION SO STATING.

21 (3) THE COURT SHALL MAKE A WRITTEN DETERMINATION AS TO
22 WHETHER REASONABLE EFFORTS ARE BEING MADE TO MAKE IT POSSIBLE TO
23 RETURN THE CHILD TO THE CHILD'S HOME OR WHETHER THE ABSENCE OF SUCH
24 EFFORTS IS REASONABLE.

25 (F) (1) AN ALLEGED CINA MAY NOT BE PLACED IN:

26 (I) DETENTION, AS DEFINED IN § 3-8A-01 OF THIS TITLE; OR

27 (II) A MENTAL HEALTH FACILITY, UNLESS COMMITTED
28 INVOLUNTARILY IN ACCORDANCE WITH §§ 10-613 THROUGH 10-619 OF THE HEALTH -
29 GENERAL ARTICLE.

30 (2) (I) IF THE CHILD IS ALLEGED TO BE IN NEED OF ASSISTANCE
31 BECAUSE OF A MENTAL DISORDER OR A DEVELOPMENTAL DISABILITY, THE CHILD
32 MAY BE PLACED IN A SHELTER CARE FACILITY MAINTAINED OR LICENSED BY THE
33 DEPARTMENT OF HEALTH AND MENTAL HYGIENE OR, IF NO SUCH FACILITY IS
34 AVAILABLE, IN A PRIVATE HOME OR SHELTER CARE FACILITY APPROVED BY THE
35 COURT.

36 (II) IF THE CHILD IS ALLEGED TO BE IN NEED OF ASSISTANCE FOR
37 ANY OTHER REASON, THE CHILD MAY BE PLACED IN A SHELTER CARE FACILITY

1 MAINTAINED OR APPROVED BY THE SOCIAL SERVICES ADMINISTRATION OR IN A
2 PRIVATE HOME OR SHELTER CARE FACILITY APPROVED BY THE COURT.

3 (3) AN ALLEGED CINA MAY NOT BE PLACED IN A SHELTER CARE
4 FACILITY THAT IS NOT OPERATING IN COMPLIANCE WITH APPLICABLE STATE
5 LICENSING LAWS.

6 (4) THE SECRETARY OF HUMAN RESOURCES, THE SECRETARY OF
7 JUVENILE JUSTICE, THE SECRETARY OF HEALTH AND MENTAL HYGIENE, THE STATE
8 SUPERINTENDENT OF SCHOOLS, AND THE SPECIAL SECRETARY FOR CHILDREN,
9 YOUTH, AND FAMILIES, WHEN APPROPRIATE, SHALL JOINTLY ADOPT REGULATIONS
10 TO ENSURE THAT ANY CHILD PLACED IN SHELTER CARE IN ACCORDANCE WITH A
11 PETITION FILED UNDER THIS SECTION IS PROVIDED APPROPRIATE SERVICES,
12 INCLUDING:

13 (I) HEALTH CARE SERVICES;

14 (II) MENTAL HEALTH CARE SERVICES;

15 (III) COUNSELING SERVICES;

16 (IV) EDUCATION SERVICES;

17 (V) SOCIAL WORK SERVICES;

18 (VI) DRUG AND ALCOHOL ABUSE ASSESSMENT OR TREATMENT
19 SERVICES; AND

20 (VII) VISITATION WITH SIBLINGS AND BIOLOGICAL FAMILY.

21 (5) IN ADDITION TO ANY OTHER PROVISION, THE REGULATIONS SHALL
22 REQUIRE THE LOCAL DEPARTMENT:

23 (I) WITHIN 45 DAYS OF PLACEMENT OF A CHILD IN A SHELTER
24 CARE FACILITY, TO DEVELOP A PLAN TO ASSESS THE CHILD'S TREATMENT NEEDS;
25 AND

26 (II) TO SUBMIT THE PLAN TO ALL PARTIES TO THE PETITION AND
27 THEIR COUNSEL.

28 COMMITTEE NOTE: This section was derived from former CJ § 3-815(a)
29 through (d)(5), (f), and (h).

30 Language was added to subsection (c) to clarify that the court should hear
31 a petition for continued shelter care not later than the next day that the
32 circuit court is sitting. This will prevent jurisdictions that currently do not
33 schedule juvenile court every day from delaying a shelter care hearing. If
34 there are children removed and petitions filed, a hearing must be held the
35 next circuit court day.

36 Subsection (f)(2) of this section was revised in language consistent with

1 terminology used in the Health - General Article.

2 3-816.

3 (A) AFTER A PETITION IS FILED UNDER THIS SUBTITLE, THE COURT MAY
4 ORDER THE LOCAL DEPARTMENT OR ANOTHER QUALIFIED AGENCY TO MAKE OR
5 ARRANGE FOR A STUDY CONCERNING THE CHILD, THE CHILD'S FAMILY, THE CHILD'S
6 ENVIRONMENT, AND OTHER MATTERS RELEVANT TO THE DISPOSITION OF THE CASE.

7 (B) (1) AS PART OF A STUDY UNDER THIS SECTION, THE COURT MAY ORDER
8 THAT THE CHILD OR ANY PARENT, GUARDIAN, OR CUSTODIAN BE EXAMINED AT A
9 SUITABLE PLACE BY A PHYSICIAN, PSYCHIATRIST, PSYCHOLOGIST, OR OTHER
10 PROFESSIONALLY QUALIFIED PERSON.

11 (2) (I) THE COURT MAY NOT ORDER AN INPATIENT EVALUATION
12 UNLESS, AFTER A HEARING, THE COURT FINDS THAT AN INPATIENT EVALUATION IS
13 NECESSARY AND THERE ARE NO LESS RESTRICTIVE MEANS TO OBTAIN AN
14 EVALUATION.

15 (II) PLACEMENT IN AN INPATIENT FACILITY MAY NOT EXCEED 20
16 DAYS UNLESS THE COURT FINDS GOOD CAUSE.

17 (C) (1) THE REPORT OF A STUDY UNDER THIS SECTION IS ADMISSIBLE AS
18 EVIDENCE AT A DISPOSITION HEARING BUT NOT AT AN ADJUDICATION HEARING.

19 (2) THE ATTORNEY FOR EACH PARTY HAS THE RIGHT TO RECEIVE THE
20 REPORT AT LEAST 5 DAYS BEFORE ITS PRESENTATION TO THE COURT, TO
21 CHALLENGE OR IMPEACH ITS FINDINGS AND TO PRESENT APPROPRIATE EVIDENCE
22 WITH RESPECT TO IT.

23 (3) THE TIME REQUIREMENT SPECIFIED IN PARAGRAPH (2) OF THIS
24 SUBSECTION DOES NOT APPLY TO AN EMERGENCY DISPOSITIONAL REVIEW
25 HEARING HELD IN ACCORDANCE WITH § 3-820 OF THIS SUBTITLE.

26 COMMITTEE NOTE: Subsections (a), (b)(1), and (c) of this section were derived
27 from former CJ § 3-818.

28 Subsection (b)(2) of this section was added to state expressly that the court
29 may not order an inpatient evaluation, unless after hearing the court finds
30 that it is necessary and there are no less restrictive means to obtain an
31 evaluation.

32 This revision also dictates how far in advance a report of the study of the
33 child or family must be given to the attorney for each party if the report is
34 to be presented to the court.

35 3-817.

36 (A) AFTER A PETITION IS FILED UNDER THIS SUBTITLE, THE COURT SHALL
37 HOLD AN ADJUDICATION HEARING.

1 (B) THE RULES OF EVIDENCE UNDER TITLE 5 OF THE MARYLAND RULES
2 SHALL APPLY AT AN ADJUDICATION HEARING.

3 (C) THE ALLEGATIONS IN A PETITION UNDER THIS SUBTITLE SHALL BE
4 PROVED BY A PREPONDERANCE OF THE EVIDENCE.

5 COMMITTEE NOTE: Subsections (a) and (c) of this section were derived from
6 former CJ § 3-819.

7 Subsection (b) of this section was added to address evidentiary procedures.

8 3-818.

9 WITHIN 1 YEAR AFTER A CHILD'S BIRTH, THERE IS A PRESUMPTION THAT A
10 CHILD IS NOT RECEIVING PROPER CARE AND ATTENTION FROM THE MOTHER FOR
11 PURPOSES OF § 3-801(F)(2) OF THIS SUBTITLE IF:

12 (1) (I) THE CHILD WAS BORN ADDICTED TO OR DEPENDENT ON
13 COCAINE, HEROIN, OR A DERIVATIVE OF COCAINE OR HEROIN; OR

14 (II) THE CHILD WAS BORN WITH A SIGNIFICANT PRESENCE OF
15 COCAINE, HEROIN, OR A DERIVATIVE OF COCAINE OR HEROIN IN THE CHILD'S BLOOD
16 AS EVIDENCED BY TOXICOLOGY OR OTHER APPROPRIATE TESTS; AND

17 (2) DRUG TREATMENT IS MADE AVAILABLE TO THE MOTHER AND THE
18 MOTHER REFUSES OR DOES NOT SUCCESSFULLY COMPLETE THE DRUG TREATMENT.

19 COMMITTEE NOTE: This section was derived from former CJ § 3-801.1 and
20 revised to limit the presumption to apply only within 1 year after a child's
21 birth. This section is consistent with FL §§ 5-706.3 and 5-710.

22 3-819.

23 (A) (1) UNLESS A PETITION UNDER THIS SUBTITLE IS DISMISSED, THE
24 COURT SHALL HOLD A SEPARATE DISPOSITION HEARING AFTER AN ADJUDICATION
25 HEARING TO DETERMINE WHETHER THE CHILD IS A CINA.

26 (2) THE DISPOSITION HEARING SHALL BE HELD ON THE SAME DAY AS
27 THE ADJUDICATION HEARING UNLESS ON ITS OWN MOTION OR MOTION OF A PARTY,
28 THE COURT FINDS THAT THERE IS GOOD CAUSE TO DELAY THE DISPOSITION
29 HEARING TO A LATER DAY.

30 (3) IF THE COURT DELAYS A DISPOSITION HEARING, IT SHALL BE HELD
31 NO LATER THAN 30 DAYS AFTER THE CONCLUSION OF THE ADJUDICATION HEARING
32 UNLESS GOOD CAUSE IS SHOWN.

33 (B) IN MAKING A DISPOSITION ON A PETITION UNDER THIS SUBTITLE, THE
34 COURT SHALL:

35 (1) FIND THAT THE CHILD IS NOT IN NEED OF ASSISTANCE AND, EXCEPT
36 AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, DISMISS THE CASE; OR

1 (2) FIND THAT THE CHILD IS IN NEED OF ASSISTANCE AND:

2 (I) NOT CHANGE THE CHILD'S CUSTODY STATUS; OR

3 (II) COMMIT THE CHILD TO THE CUSTODY OF:

4 1. A PARENT, RELATIVE, OR OTHER INDIVIDUAL ON TERMS
5 THE COURT CONSIDERS APPROPRIATE; OR

6 2. A LOCAL DEPARTMENT, THE DEPARTMENT OF HEALTH
7 AND MENTAL HYGIENE, OR BOTH, ON TERMS THAT THE COURT CONSIDERS
8 APPROPRIATE, INCLUDING DESIGNATION OF THE TYPE OF FACILITY WHERE THE
9 CHILD IS TO BE PLACED.

10 (C) IN ADDITION TO ANY ACTION UNDER SUBSECTION (B)(2) OF THIS SECTION,
11 THE COURT MAY:

12 (1) (I) PLACE A CHILD UNDER THE PROTECTIVE SUPERVISION OF THE
13 LOCAL DEPARTMENT ON TERMS THE COURT CONSIDERS APPROPRIATE;

14 (II) GRANT LIMITED GUARDIANSHIP TO THE DEPARTMENT OR AN
15 INDIVIDUAL OR BOTH FOR SPECIFIC PURPOSES INCLUDING MEDICAL AND
16 EDUCATIONAL PURPOSES OR FOR OTHER APPROPRIATE SERVICES IF A PARENT IS
17 UNAVAILABLE, UNWILLING, OR UNABLE TO CONSENT TO SERVICES THAT ARE IN THE
18 BEST INTEREST OF THE CHILD; OR

19 (III) ORDER THE CHILD AND THE CHILD'S PARENT, GUARDIAN, OR
20 CUSTODIAN TO PARTICIPATE IN REHABILITATIVE SERVICES THAT ARE IN THE BEST
21 INTEREST OF THE CHILD AND FAMILY; AND

22 (2) DETERMINE CUSTODY, VISITATION, SUPPORT, OR PATERNITY OF A
23 CHILD IN ACCORDANCE WITH § 3-803(B) OF THIS SUBTITLE.

24 (D) IF THE ALLEGATIONS IN THE PETITION ARE SUSTAINED AGAINST ONLY
25 ONE PARENT OF A CHILD, AND THERE IS ANOTHER PARENT AVAILABLE WHO IS ABLE
26 AND WILLING TO CARE FOR THE CHILD, THE COURT MAY NOT FIND THAT THE CHILD
27 IS A CHILD IN NEED OF ASSISTANCE, BUT, BEFORE DISMISSING THE PETITION, THE
28 COURT MAY AWARD CUSTODY TO THE OTHER PARENT.

29 (E) IF THE DISPOSITION REMOVES A CHILD FROM THE CHILD'S HOME, THE
30 ORDER SHALL:

31 (1) SET FORTH SPECIFIC FINDINGS OF FACT AS TO THE
32 CIRCUMSTANCES THAT CAUSED THE NEED FOR THE REMOVAL; AND

33 (2) INFORM THE PARENTS, CUSTODIAN, OR GUARDIAN, IF ANY, THAT
34 THE PERSON OR AGENCY TO WHICH THE CHILD IS COMMITTED MAY CHANGE THE
35 PERMANENCY PLAN OF REUNIFICATION TO ANOTHER PERMANENCY PLAN, WHICH
36 MAY INCLUDE THE FILING OF A PETITION FOR TERMINATION OF PARENTAL RIGHTS
37 IF THE PARENTS:

1 (I) HAVE NOT MADE SIGNIFICANT PROGRESS TO REMEDY THE
2 CIRCUMSTANCES THAT CAUSED THE NEED FOR THE REMOVAL AS SPECIFIED IN THE
3 COURT ORDER; AND

4 (II) ARE UNWILLING OR UNABLE TO GIVE THE CHILD PROPER CARE
5 AND ATTENTION WITHIN A REASONABLE PERIOD OF TIME.

6 (F) A GUARDIAN APPOINTED UNDER THIS SECTION HAS NO CONTROL OVER
7 THE PROPERTY OF THE CHILD UNLESS THE COURT EXPRESSLY GRANTS THAT
8 AUTHORITY.

9 (G) THE COURT MAY NOT COMMIT A CHILD FOR INPATIENT CARE AND
10 TREATMENT IN A PSYCHIATRIC FACILITY UNLESS THE COURT FINDS ON THE
11 RECORD BASED ON CLEAR AND CONVINCING EVIDENCE THAT:

12 (1) THE CHILD HAS A MENTAL DISORDER;

13 (2) THE CHILD NEEDS INPATIENT MEDICAL CARE OR TREATMENT FOR
14 THE PROTECTION OF THE CHILD OR OTHERS;

15 (3) THE CHILD IS UNABLE OR UNWILLING TO BE VOLUNTARILY
16 ADMITTED TO SUCH FACILITY; AND

17 (4) THERE IS NO LESS RESTRICTIVE FORM OF INTERVENTION
18 AVAILABLE THAT IS CONSISTENT WITH THE CHILD'S CONDITION AND WELFARE.

19 (H) THE COURT MAY NOT COMMIT A CHILD FOR INPATIENT CARE AND
20 TREATMENT IN A FACILITY FOR THE DEVELOPMENTALLY DISABLED UNLESS THE
21 COURT FINDS ON THE RECORD BASED ON CLEAR AND CONVINCING EVIDENCE THAT:

22 (1) THE CHILD IS DEVELOPMENTALLY DISABLED;

23 (2) THE CONDITION IS OF SUCH A NATURE THAT FOR THE ADEQUATE
24 CARE OR PROTECTION OF THE CHILD OR OTHERS, THE CHILD NEEDS IN-RESIDENCE
25 CARE OR TREATMENT; AND

26 (3) THERE IS NO LESS RESTRICTIVE FORM OF CARE AND TREATMENT
27 AVAILABLE THAT IS CONSISTENT WITH THE CHILD'S WELFARE AND SAFETY.

28 (I) (1) (I) EACH COMMITMENT ORDER ISSUED UNDER SUBSECTION (G)
29 OR (H) OF THIS SECTION SHALL REQUIRE THE CUSTODIAN TO FILE PROGRESS
30 REPORTS WITH THE COURT AT INTERVALS NO GREATER THAN EVERY 6 MONTHS
31 DURING THE LIFE OF THE ORDER.

32 (II) THE CUSTODIAN SHALL PROVIDE EACH PARTY OR ATTORNEY
33 OF RECORD WITH A COPY OF EACH REPORT, WHICH SHALL BE CONSIDERED AT THE
34 NEXT SCHEDULED HEARING.

35 (III) AFTER THE FIRST 6 MONTHS OF THE COMMITMENT AND AT
36 6-MONTH INTERVALS THEREAFTER, ON THE REQUEST OF ANY PARTY, THE

1 CUSTODIAN, OR THE FACILITY, THE COURT SHALL HOLD A HEARING TO DETERMINE
2 WHETHER THE STANDARDS SPECIFIED IN SUBSECTION (G) OR (H) OF THIS SECTION
3 CONTINUE TO BE MET.

4 (2) (I) IF AN INDIVIDUALIZED TREATMENT PLAN DEVELOPED UNDER
5 § 10-706 OF THE HEALTH - GENERAL ARTICLE RECOMMENDS THAT A CHILD NO
6 LONGER MEETS THE STANDARDS SPECIFIED IN SUBSECTION (G) OF THIS SECTION,
7 THE COURT SHALL GRANT A HEARING TO REVIEW THE COMMITMENT ORDER.

8 (II) THE COURT MAY GRANT A HEARING AT ANY OTHER TIME TO
9 DETERMINE WHETHER THE STANDARDS SPECIFIED IN SUBSECTION (G) OF THIS
10 SECTION CONTINUE TO BE MET.

11 (3) (I) IF AN INDIVIDUALIZED PLAN OF HABILITATION DEVELOPED
12 UNDER § 7-1006 OF THE HEALTH - GENERAL ARTICLE RECOMMENDS THAT A CHILD
13 NO LONGER MEETS THE STANDARDS SPECIFIED IN SUBSECTION (H) OF THIS
14 SECTION, THE COURT SHALL GRANT A HEARING TO REVIEW THE COMMITMENT
15 ORDER.

16 (II) THE COURT MAY GRANT A HEARING AT ANY OTHER TIME TO
17 DETERMINE WHETHER THE STANDARDS SPECIFIED IN SUBSECTION (H) OF THIS
18 SECTION CONTINUE TO BE MET.

19 (J) AN ORDER VESTING LEGAL CUSTODY OF A CHILD IN A PERSON OR
20 AGENCY IS EFFECTIVE FOR AN INDETERMINATE PERIOD OF TIME, BUT IS NOT
21 EFFECTIVE AFTER THE CHILD REACHES THE AGE OF 21.

22 (K) AFTER GIVING THE PARENT A REASONABLE OPPORTUNITY TO BE HEARD,
23 AND DETERMINING THE INCOME OF THE PARENT, THE COURT MAY ORDER EITHER
24 PARENT OR BOTH PARENTS TO PAY A SUM IN THE AMOUNT THE COURT DIRECTS TO
25 COVER WHOLLY OR PARTLY THE SUPPORT OF THE CHILD UNDER THIS SUBTITLE.

26 COMMITTEE NOTE: Subsections (a)(1) and (2), (b), and (e) through (k) of this
27 section were derived from former CJ §§ 3-820(a)(1) and (3), (c)(1), (e), (h),
28 and (i), 3-825(a), and 3-830.

29 Subsections (a)(3), (c), and (d) were added.

30 Subsection (e) of this section is not intended to prohibit any
31 co-commitments between agencies.

32 The Committee is aware that there is a school of thought that the
33 determination of the CINA finding should be made at the adjudication
34 hearing.

35 Subsection (g) of this section was revised to encompass commitments to all
36 psychiatric facilities.

1 3-820.

2 (A) AFTER DISPOSITION, WHEN THE COURT HAS ORDERED A SPECIFIC
3 PLACEMENT OF A CHILD, A LOCAL DEPARTMENT MAY REMOVE THE CHILD FROM
4 THAT PLACEMENT PRIOR TO A HEARING ONLY IF:

5 (1) REMOVAL IS REQUIRED TO PROTECT THE CHILD FROM SERIOUS
6 IMMEDIATE DANGER;

7 (2) THE CHILD'S CONTINUED PLACEMENT IN THE COURT-ORDERED
8 PLACEMENT IS CONTRARY TO THE WELFARE OF THE CHILD; OR

9 (3) THE PERSON OR AGENCY WITH WHOM THE CHILD IS PLACED HAS
10 REQUESTED THE IMMEDIATE REMOVAL OF THE CHILD.

11 (B) (1) BEFORE REMOVAL OR, IF NOT POSSIBLE, IMMEDIATELY AFTER
12 REMOVAL, THE LOCAL DEPARTMENT SHALL NOTIFY ALL PARTIES, COUNSEL, AND
13 THE COURT OF THE REMOVAL OF THE CHILD.

14 (2) THE LOCAL DEPARTMENT SHALL PROVIDE THE ADDRESS AND
15 PHONE NUMBER OF THE CHILD'S NEW PLACEMENT TO THE CHILD'S COUNSEL.

16 (C) (1) IF THE CHILD IS NOT RETURNED TO THE COURT-ORDERED
17 PLACEMENT, THE LOCAL DEPARTMENT SHALL IMMEDIATELY FILE A MOTION TO
18 AUTHORIZE THE REMOVAL OF THE CHILD AND THE CHILD'S NEW PLACEMENT.

19 (2) THE MOTION SHALL SET FORTH THE FACTS ON WHICH THE
20 DEPARTMENT RELIED IN REMOVING THE CHILD AND THE IDENTITY OF ANY
21 WITNESSES.

22 (D) (1) THE COURT SHALL HOLD AN EMERGENCY REVIEW HEARING ON THE
23 MOTION NOT LATER THAN THE NEXT DAY ON WHICH THE CIRCUIT COURT SITS OR, IN
24 MONTGOMERY COUNTY, THE NEXT DAY ON WHICH THE DISTRICT COURT SITS.

25 (2) ALL PARTIES SHALL BE GIVEN REASONABLE NOTICE OF THE
26 HEARING.

27 (E) AT THE EMERGENCY REVIEW HEARING, THE COURT'S DECISION TO
28 REJECT OR TO RATIFY THE LOCAL DEPARTMENT'S REMOVAL OF THE CHILD SHALL
29 BE BASED UPON SUCH EVIDENCE AS WOULD BE SUFFICIENT UNDER § 3-815(D) OF
30 THIS SUBTITLE TO ORDER SHELTER CARE.

31 (F) (1) UNLESS ALL PARTIES AGREE TO THE COURT'S ORDER AT THE
32 EMERGENCY REVIEW HEARING, THE COURT, AT THAT HEARING, SHALL SCHEDULE A
33 REGULAR REVIEW HEARING WITHIN 30 DAYS AFTER THE EMERGENCY REVIEW
34 HEARING FOR A FULL HEARING ON THE MERITS OF THE LOCAL DEPARTMENT'S
35 ACTION.

36 (2) AT THE FULL HEARING ON THE MERITS, THE RULES OF EVIDENCE
37 UNDER TITLE 5 OF THE MARYLAND RULES SHALL APPLY.

1 (3) THE HEARING MAY BE POSTPONED BY AGREEMENT OF THE PARTIES
2 OR FOR GOOD CAUSE SHOWN.

3 COMMITTEE NOTE: This section was added to establish procedures for the
4 removal of children who are already in the foster care system throughout
5 the State.

6 3-821.

7 (A) THE COURT, ON ITS OWN MOTION OR ON APPLICATION OF A PARTY, MAY
8 ISSUE AN APPROPRIATE ORDER DIRECTING, RESTRAINING, OR OTHERWISE
9 CONTROLLING THE CONDUCT OF A PERSON WHO IS PROPERLY BEFORE THE COURT,
10 IF THE COURT FINDS THAT THE CONDUCT:

11 (1) IS OR MAY BE DETRIMENTAL OR HARMFUL TO A CHILD OVER WHOM
12 THE COURT HAS JURISDICTION;

13 (2) WILL TEND TO DEFEAT THE EXECUTION OF AN ORDER OR
14 DISPOSITION MADE OR TO BE MADE UNDER THIS SUBTITLE; OR

15 (3) WILL ASSIST IN THE REHABILITATION OF OR IS NECESSARY FOR THE
16 WELFARE OF THE CHILD.

17 (B) SUBSECTION (A) OF THIS SECTION SHALL APPLY TO A PERSON NOT A
18 PARTY TO THE PETITION IF THE PERSON IS GIVEN:

19 (1) NOTICE OF THE PROPOSED ORDER CONTROLLING THE PERSON'S
20 CONDUCT; AND

21 (2) THE OPPORTUNITY TO CONTEST THE ENTRY OF THE PROPOSED
22 ORDER.

23 (C) AN ORDER ISSUED UNDER THIS SECTION IS ENFORCEABLE UNDER TITLE
24 15, CHAPTER 200 OF THE MARYLAND RULES.

25 COMMITTEE NOTE: Subsection (a) of this section was derived from former
26 CJ § 3-827.

27 Subsection (b) of this section was added to state expressly that this section
28 may apply to nonparties if the specified due process rights are followed.

29 3-822.

30 (A) (1) AT EACH CINA HEARING, THE COURT SHALL INQUIRE INTO, AND
31 MAKE FINDINGS OF FACT ON THE RECORD AS TO, THE IDENTITY AND CURRENT
32 ADDRESS OF EACH PARENT OF EACH CHILD BEFORE THE COURT.

33 (2) IN CARRYING OUT PARAGRAPH (1) OF THIS SUBSECTION, THE COURT
34 SHALL:

1 (I) INFORM ALL PARTIES PRESENT OF THEIR CONTINUING
2 OBLIGATION TO ASSIST THE COURT IN IDENTIFYING AND LOCATING EACH PARENT
3 OF EACH CHILD;

4 (II) INFORM THE PARENTS PRESENT OF THEIR CONTINUING
5 OBLIGATION TO KEEP THE CLERK OF THE COURT APPRISED OF THEIR CURRENT
6 ADDRESS;

7 (III) INFORM THE PARENTS PRESENT OF AVAILABLE MEANS TO
8 ESTABLISH PATERNITY, IF NOT YET ESTABLISHED; AND

9 (IV) IF APPROPRIATE, REFER THE PARENTS TO THE APPROPRIATE
10 SUPPORT ENFORCEMENT AGENCY TO ESTABLISH PATERNITY AND SUPPORT.

11 (B) EACH PARENT OF A CHILD WHO IS THE SUBJECT OF A CINA PROCEEDING
12 SHALL NOTIFY THE COURT AND THE LOCAL DEPARTMENT OF ALL CHANGES IN THE
13 PARENT'S ADDRESS.

14 (C) THE CLERK OF THE COURT SHALL KEEP A LISTING OF EVERY ADDRESS
15 PROVIDED BY A PARENT OF A CHILD WHO IS THE SUBJECT OF A CINA PROCEEDING.

16 (D) ON REQUEST OF A LOCAL DEPARTMENT, THE CLERK'S OFFICE SHALL
17 DISCLOSE TO THE LOCAL DEPARTMENT ALL ADDRESSES LISTED BY A PARENT OF A
18 CINA WITHIN THE PRECEDING 9 MONTHS, FOR THE PURPOSE OF ATTEMPTING
19 NOTIFICATION OF A PETITION FOR GUARDIANSHIP WITH THE RIGHT TO CONSENT TO
20 ADOPTION OR LONG-TERM CARE SHORT OF ADOPTION.

21 (E) THE COURT MAY:

22 (1) ORDER A PARENT OR PUTATIVE PARENT TO:

23 (I) APPLY FOR CHILD SUPPORT SERVICES WITH THE APPROPRIATE
24 SUPPORT ENFORCEMENT AGENCY; AND

25 (II) COOPERATE WITH THE APPROPRIATE SUPPORT ENFORCEMENT
26 AGENCY TO ESTABLISH PATERNITY AND CHILD SUPPORT; AND

27 (2) MAKE A FINDING OF PATERNITY IN ACCORDANCE WITH TITLE 5,
28 SUBTITLE 10, PART VI OF THE FAMILY LAW ARTICLE.

29 (F) ANY COURT MAY CONSIDER EVIDENCE TAKEN AND FINDINGS MADE ON
30 THE RECORD IN A CINA HEARING AND IN A PATERNITY, CUSTODY, CHILD SUPPORT,
31 OR GUARDIANSHIP PROCEEDING REGARDING THAT CHILD OR A SIBLING OF A CHILD.

32 COMMITTEE NOTE: This section was derived by combining former CJ §§
33 3-837 and 3-837.1.

34 The provisions for use of a record were broadened to include additional
35 courts, types of proceedings, and siblings.

1 3-823.

2 (A) IN THIS SECTION, "OUT-OF-HOME PLACEMENT" HAS THE MEANING
3 STATED IN § 5-501 OF THE FAMILY LAW ARTICLE.

4 (B) (1) THE COURT SHALL HOLD A PERMANENCY PLANNING HEARING:

5 (I) NO LATER THAN 11 MONTHS AFTER A CHILD IN A CINA
6 PROCEEDING ENTERS AN OUT-OF-HOME PLACEMENT TO DETERMINE THE
7 PERMANENCY PLAN FOR THE CHILD COMMITTED UNDER § 3-819(B) OF THIS
8 SUBTITLE; OR

9 (II) WITHIN 30 DAYS AFTER THE COURT FINDS THAT REASONABLE
10 EFFORTS TO REUNIFY A CHILD WITH THE CHILD'S PARENT OR GUARDIAN ARE NOT
11 REQUIRED BASED ON A FINDING THAT A CIRCUMSTANCE ENUMERATED IN § 3-812 OF
12 THIS SUBTITLE HAS OCCURRED.

13 (2) FOR PURPOSES OF THIS SECTION, A CHILD SHALL BE CONSIDERED
14 TO HAVE ENTERED AN OUT-OF-HOME PLACEMENT 30 DAYS AFTER THE CHILD IS
15 PLACED INTO AN OUT-OF-HOME PLACEMENT.

16 (3) IF ALL PARTIES AGREE, A PERMANENCY PLANNING HEARING MAY
17 BE HELD ON THE SAME DAY AS THE REASONABLE EFFORTS HEARING.

18 (C) (1) ON THE WRITTEN REQUEST OF A PARTY OR ON ITS OWN MOTION,
19 THE COURT MAY SCHEDULE A HEARING AT ANY EARLIER TIME TO DETERMINE A
20 PERMANENCY PLAN OR TO REVIEW THE IMPLEMENTATION OF A PERMANENCY PLAN
21 FOR ANY CHILD COMMITTED UNDER § 3-819 OF THIS SUBTITLE.

22 (2) A WRITTEN REQUEST FOR REVIEW SHALL STATE THE REASON FOR
23 THE REQUEST AND EACH ISSUE TO BE RAISED.

24 (D) AT LEAST 10 DAYS BEFORE THE PERMANENCY PLANNING HEARING, THE
25 LOCAL DEPARTMENT SHALL PROVIDE ALL PARTIES AND THE COURT WITH A COPY OF
26 THE LOCAL DEPARTMENT'S PERMANENCY PLAN FOR THE CHILD.

27 (E) AT A PERMANENCY PLANNING HEARING, THE COURT SHALL:

28 (1) DETERMINE THE CHILD'S PERMANENCY PLAN, WHICH MAY BE:

29 (I) REUNIFICATION WITH THE PARENT OR GUARDIAN;

30 (II) PLACEMENT WITH A RELATIVE FOR:

31 1. ADOPTION; OR

32 2. CUSTODY AND GUARDIANSHIP;

33 (III) ADOPTION BY A NONRELATIVE;

34 (IV) GUARDIANSHIP BY A NONRELATIVE;

1 (V) CONTINUATION IN A SPECIFIED PLACEMENT ON A PERMANENT
2 BASIS BECAUSE OF THE CHILD'S SPECIAL NEEDS OR CIRCUMSTANCES;

3 (VI) CONTINUATION IN PLACEMENT FOR A SPECIFIED PERIOD
4 BECAUSE OF THE CHILD'S SPECIAL NEEDS OR CIRCUMSTANCES; OR

5 (VII) INDEPENDENT LIVING; AND

6 (2) FOR A CHILD WHO HAS ATTAINED THE AGE OF 16, DETERMINE THE
7 SERVICES NEEDED TO ASSIST THE CHILD TO MAKE THE TRANSITION FROM
8 PLACEMENT TO INDEPENDENT LIVING.

9 (F) THE COURT MAY NOT ORDER A CHILD TO BE CONTINUED IN A PLACEMENT
10 UNDER SUBSECTION (E)(1)(V) OR (VI) OF THIS SECTION UNLESS THE COURT FINDS
11 THAT THE PERSON OR AGENCY TO WHICH THE CHILD IS COMMITTED HAS
12 DOCUMENTED A COMPELLING REASON FOR DETERMINING THAT IT WOULD NOT BE
13 IN THE BEST INTEREST OF THE CHILD TO:

14 (1) RETURN HOME;

15 (2) BE REFERRED FOR TERMINATION OF PARENTAL RIGHTS; OR

16 (3) BE PLACED FOR ADOPTION OR GUARDIANSHIP WITH A SPECIFIED
17 AND APPROPRIATE RELATIVE OR LEGAL GUARDIAN WILLING TO CARE FOR THE
18 CHILD.

19 (G) IN THE CASE OF A CHILD FOR WHOM THE COURT DETERMINES THAT THE
20 PLAN SHOULD BE CHANGED TO ADOPTION UNDER SUBSECTION (E)(1)(III) OF THIS
21 SECTION, THE COURT SHALL:

22 (1) ORDER THE LOCAL DEPARTMENT TO FILE A PETITION FOR
23 GUARDIANSHIP IN ACCORDANCE WITH TITLE 5, SUBTITLE 3 OF THE FAMILY LAW
24 ARTICLE WITHIN 30 DAYS OR, IF THE LOCAL DEPARTMENT DOES NOT SUPPORT THE
25 PLAN, WITHIN 60 DAYS; AND

26 (2) SCHEDULE A TPR HEARING INSTEAD OF THE NEXT 6-MONTH
27 REVIEW HEARING.

28 (H) (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
29 PARAGRAPH, THE COURT SHALL CONDUCT A HEARING TO REVIEW THE
30 PERMANENCY PLAN AT LEAST EVERY 6 MONTHS UNTIL COMMITMENT IS RESCINDED.

31 (II) THE COURT IS NOT REQUIRED TO HOLD A REVIEW HEARING
32 EVERY 6 MONTHS AFTER THE COURT GRANTS GUARDIANSHIP OF THE CHILD TO A
33 RELATIVE OR OTHER PERSON, OR DETERMINES THAT THE CHILD SHALL BE
34 CONTINUED IN OUT-OF-HOME PLACEMENT WITH A SPECIFIC CAREGIVER WHO
35 AGREES TO CARE FOR THE CHILD ON A PERMANENT BASIS.

36 (2) AT THE REVIEW HEARING, THE COURT SHALL:

1 (I) DETERMINE THE CONTINUING NECESSITY FOR AND
2 APPROPRIATENESS OF THE COMMITMENT;

3 (II) DETERMINE THE EXTENT OF COMPLIANCE WITH THE
4 PERMANENCY PLAN;

5 (III) DETERMINE THE EXTENT OF PROGRESS THAT HAS BEEN MADE
6 TOWARD ALLEVIATING OR MITIGATING THE CAUSES NECESSITATING COMMITMENT;

7 (IV) PROJECT A REASONABLE DATE BY WHICH A CHILD IN
8 PLACEMENT MAY BE RETURNED HOME, PLACED IN A PREADOPTIVE HOME, OR
9 PLACED UNDER A LEGAL GUARDIANSHIP;

10 (V) EVALUATE THE SAFETY OF THE CHILD AND TAKE NECESSARY
11 MEASURES TO PROTECT THE CHILD; AND

12 (VI) CHANGE THE PERMANENCY PLAN IF A CHANGE IN THE
13 PERMANENCY PLAN WOULD BE IN THE CHILD'S BEST INTEREST.

14 (3) EVERY REASONABLE EFFORT SHALL BE MADE TO EFFECTUATE A
15 PERMANENT PLACEMENT FOR THE CHILD WITHIN 24 MONTHS AFTER THE DATE OF
16 INITIAL PLACEMENT.

17 (I) (1) IN THIS SUBSECTION, "PREADOPTIVE PARENT" MEANS AN
18 INDIVIDUAL WHOM A CHILD PLACEMENT AGENCY, AS DEFINED IN § 5-301 OF THE
19 FAMILY LAW ARTICLE, APPROVES TO ADOPT A CHILD WHO HAS BEEN PLACED IN THE
20 INDIVIDUAL'S HOME FOR ADOPTION BEFORE THE FINAL DECREE OF ADOPTION.

21 (2) IF PRACTICABLE, THE LOCAL DEPARTMENT SHALL GIVE AT LEAST 7
22 DAYS' NOTICE BEFORE ANY HEARING CONDUCTED UNDER THIS SECTION TO THE
23 CHILD'S FOSTER PARENT, PREADOPTIVE PARENT, OR RELATIVE PROVIDING CARE
24 FOR THE CHILD.

25 (3) THE FOSTER PARENT, PREADOPTIVE PARENT, RELATIVE, OR AN
26 ATTORNEY FOR THE FOSTER PARENT, PREADOPTIVE PARENT, OR RELATIVE SHALL
27 BE GIVEN AN OPPORTUNITY TO BE HEARD AT THE HEARING.

28 (4) THE FOSTER PARENT, PREADOPTIVE PARENT, RELATIVE, OR
29 ATTORNEY MAY NOT BE CONSIDERED TO BE A PARTY SOLELY ON THE BASIS OF THE
30 RIGHT TO NOTICE AND OPPORTUNITY TO BE HEARD PROVIDED UNDER THIS
31 SUBSECTION.

32 (J) AT A REVIEW HEARING UNDER THIS SECTION, THE COURT SHALL
33 CONSIDER ANY WRITTEN REPORT OF A LOCAL OUT-OF-HOME PLACEMENT REVIEW
34 BOARD REQUIRED UNDER § 5-545 OF THE FAMILY LAW ARTICLE.

35 COMMITTEE NOTE: This section was derived from former CJ § 3-826.1.

36 Subsection (d) of this section was revised to be consistent with proposed §
37 3-826 of this subtitle.

1 3-824.

2 (A) THE COURT SHALL HEAR AND RULE ON A PETITION SEEKING AN ORDER
3 FOR EMERGENCY MEDICAL OR PSYCHIATRIC TREATMENT ON AN EXPEDITED BASIS.

4 (B) (1) THE COURT MAY ORDER EMERGENCY MEDICAL, DENTAL, OR
5 SURGICAL TREATMENT OF A CHILD ALLEGED TO HAVE A CONDITION OR ILLNESS
6 THAT, IN THE OPINION OF A LICENSED PHYSICIAN OR DENTIST, AS THE CASE MAY
7 BE, REQUIRES IMMEDIATE TREATMENT, IF THE CHILD'S PARENT, GUARDIAN, OR
8 CUSTODIAN IS NOT AVAILABLE OR, WITHOUT GOOD CAUSE, REFUSES TO CONSENT
9 TO THE TREATMENT.

10 (2) A CHILD MAY BE PLACED IN AN EMERGENCY FACILITY ON AN
11 EMERGENCY BASIS UNDER TITLE 10, SUBTITLE 6, PART IV OF THE HEALTH -
12 GENERAL ARTICLE.

13 (C) THE COURT SHALL APPLY THE FACTORS SPECIFIED IN § 13-711(B) OF THE
14 ESTATES AND TRUSTS ARTICLE, TO THE EXTENT RELEVANT, WHEN DECIDING
15 WHETHER TO WITHHOLD OR WITHDRAW A LIFE-SUSTAINING PROCEDURE, AS
16 DEFINED IN § 13-711(C) OF THE ESTATES AND TRUST ARTICLE.

17 COMMITTEE NOTE: Subsection (a) of this section was derived from former
18 CJ § 3-812(h).

19 Subsection (b) of this section was derived from former CJ §§ 3-820(g) and
20 3-822.

21 Subsection (c) of this section was added to address the requests that have
22 been presented to courts in CINA practice. The factors specified in this
23 subsection have already been determined to be appropriate by the General
24 Assembly.

25 3-825.

26 (A) A COURT MAY NOT COMMIT A CHILD WHO IS SUBJECT TO THIS SUBTITLE
27 TO, AND THE CHILD MAY NOT BE DETAINED AT OR TRANSFERRED TO, A
28 CORRECTIONAL FACILITY, AS DEFINED IN § 1-101 OF THE CORRECTIONAL SERVICES
29 ARTICLE.

30 (B) A CHILD WHO IS NOT A DELINQUENT CHILD, AS DEFINED IN § 3-8A-01 OF
31 THIS TITLE, MAY NOT BE COMMITTED OR TRANSFERRED TO A FACILITY USED FOR
32 THE CONFINEMENT OF DELINQUENT CHILDREN.

33 (C) UNLESS AN INDIVIDUALIZED TREATMENT PLAN DEVELOPED UNDER §
34 10-706 OF THE HEALTH - GENERAL ARTICLE INDICATES OTHERWISE, A CHILD MAY
35 NOT BE:

36 (1) COMMITTED OR TRANSFERRED TO ANY PUBLIC OR PRIVATE
37 FACILITY OR INSTITUTION UNLESS THE CHILD IS PLACED IN ACCOMMODATIONS

1 THAT ARE SEPARATE FROM ADULTS WHO ARE CONFINED TO THAT FACILITY OR
2 INSTITUTION; OR

3 (2) TREATED IN ANY GROUP WITH ADULTS.

4 COMMITTEE NOTE: This section was derived from former CJ § 3-823.

5 In subsection (b), the reference to a "correctional facility, as defined in §
6 1-101 of the Correctional Services Article" was substituted for the former
7 reference to a "penal institution or other facility used primarily for the
8 confinement of adults charged with or convicted of a crime", to reflect
9 enactment of the Correctional Services Article by Ch. 54, Acts of 1999.

10 3-826.

11 (A) (1) UNLESS THE COURT DIRECTS OTHERWISE, A LOCAL DEPARTMENT
12 SHALL PROVIDE ALL PARTIES WITH A WRITTEN REPORT AT LEAST 10 DAYS BEFORE
13 ANY SCHEDULED DISPOSITION, PERMANENCY PLANNING, OR REVIEW HEARING
14 UNDER § 3-819 OR § 3-823 OF THIS SUBTITLE.

15 (2) THE TIME REQUIREMENTS SPECIFIED IN PARAGRAPH (1) OF THIS
16 SUBSECTION DO NOT APPLY TO AN EMERGENCY REVIEW HEARING UNDER § 3-820 OF
17 THIS SUBTITLE.

18 (B) IF A CHILD IS COMMITTED TO A PERSON OR AGENCY UNDER THIS
19 SUBTITLE, THE COURT MAY ORDER THE CUSTODIAN TO FILE PERIODIC WRITTEN
20 PROGRESS REPORTS, WITH COPIES SENT TO ALL PARTIES.

21 COMMITTEE NOTE: Subsection (a) of this section was added to be consistent
22 with proposed § 3-823(c) of this subtitle.

23 Subsection (b) of this section was derived from former CJ § 3-826.

24 3-827.

25 (A) (1) ALL COURT RECORDS UNDER THIS SUBTITLE PERTAINING TO A
26 CHILD SHALL BE CONFIDENTIAL AND THEIR CONTENTS MAY NOT BE DIVULGED, BY
27 SUBPOENA OR OTHERWISE, EXCEPT BY ORDER OF THE COURT ON GOOD CAUSE
28 SHOWN.

29 (2) THIS SUBSECTION DOES NOT PROHIBIT REVIEW OF A COURT
30 RECORD BY:

31 (I) PERSONNEL OF THE COURT;

32 (II) A PARTY;

33 (III) COUNSEL FOR A PARTY;

34 (IV) A COURT-APPOINTED SPECIAL ADVOCATE FOR THE CHILD; OR

1 (V) AUTHORIZED PERSONNEL OF THE SOCIAL SERVICES
2 ADMINISTRATION AND LOCAL DEPARTMENTS IN ORDER TO CONDUCT A CHILD
3 ABUSE OR NEGLECT INVESTIGATION OR TO COMPLY WITH REQUIREMENTS IMPOSED
4 UNDER TITLE IV-E OF THE SOCIAL SECURITY ACT.

5 (3) INFORMATION OBTAINED FROM A COURT RECORD IS SUBJECT TO
6 THE PROVISIONS OF ARTICLE 88A, § 6 OF THE CODE.

7 (B) (1) ON ITS OWN MOTION OR ON PETITION, AND FOR GOOD CAUSE
8 SHOWN, THE COURT:

9 (I) MAY ORDER THE COURT RECORDS OF A CHILD SEALED; AND

10 (II) SHALL ORDER THEM SEALED AFTER THE CHILD HAS REACHED
11 THE AGE OF 21.

12 (2) IF SEALED, THE COURT RECORDS OF A CHILD MAY NOT BE OPENED,
13 FOR ANY PURPOSE, EXCEPT BY ORDER OF THE COURT ON GOOD CAUSE SHOWN.

14 COMMITTEE NOTE: This section was derived from former CJ § 3-828(b) and
15 (c) and was revised to permit parties and limited relevant persons to have
16 access to court records.

17 3-828.

18 (A) AN ADULT MAY NOT WILFULLY CONTRIBUTE TO, ENCOURAGE, CAUSE OR
19 TEND TO CAUSE ANY ACT, OMISSION, OR CONDITION THAT RENDERS A CHILD IN
20 NEED OF ASSISTANCE.

21 (B) A PERSON MAY BE CONVICTED UNDER THIS SECTION EVEN IF THE CHILD
22 IS NOT ADJUDICATED A CINA.

23 (C) AN ADULT WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
24 AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$2,500 OR
25 IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.

26 (D) A PETITION ALLEGING A VIOLATION OF THIS SECTION SHALL BE
27 PREPARED AND FILED BY THE STATE'S ATTORNEY.

28 (E) IF AN ADULT IS CHARGED UNDER THIS SECTION, THE ALLEGATIONS
29 SHALL BE PROVED BEYOND A REASONABLE DOUBT.

30 COMMITTEE NOTE: Subsections (a), (b), and (c) of this section were derived
31 without substantive change from former CJ § 3-831, as it related to
32 CINAs.

33 Subsections (d) and (e) were derived from former CJ §§ 3-812(b) and
34 3-819(c).

35 The omission of the sentence granting the court authority to suspend a
36 sentence, etc., is not intended to deprive the court of such authority. The

1 Committee deemed it unnecessary to state here because the court already
2 has the powers to suspend sentences, etc. The court may suspend a
3 sentence and place the adult on probation subject to the terms and
4 conditions it deems to be in the best interests of the child.

5 3-829.

6 A GOVERNING BODY OF A COUNTY MAY CREATE A JUVENILE COURT
7 COMMITTEE TO SERVE AS AN ADVISORY BODY TO THE COURT FOR THE COUNTY AND
8 SHALL DETERMINE THE COMPOSITION AND MEMBERS OF THE COMMITTEE.

9 COMMITTEE NOTE: This section was derived from former CJ § 3-833.

10 3-830.

11 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
12 INDICATED.

13 (2) "ADVOCATE" OR "C.A.S.A." MEANS A COURT-APPOINTED SPECIAL
14 ADVOCATE.

15 (3) "PROGRAM" MEANS A COURT-APPOINTED SPECIAL ADVOCATE
16 SERVICE THAT IS CREATED IN A COUNTY WITH THE SUPPORT OF THE COURT FOR
17 THAT COUNTY TO PROVIDE TRAINED VOLUNTEERS WHOM THE COURT MAY APPOINT
18 TO:

19 (I) PROVIDE THE COURT WITH BACKGROUND INFORMATION TO
20 AID IT IN MAKING DECISIONS IN THE CHILD'S BEST INTEREST; AND

21 (II) ENSURE THAT THE CHILD IS PROVIDED APPROPRIATE CASE
22 PLANNING AND SERVICES.

23 (B) (1) THERE IS A COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.

24 (2) THE PURPOSE OF THE PROGRAM IS TO PROVIDE VOLUNTEERS
25 WHOSE PRIMARY PURPOSE IS TO ENSURE THAT CHILDREN WHO ARE THE SUBJECT
26 OF A CINA PROCEEDING ARE PROVIDED WITH APPROPRIATE SERVICE AND CASE
27 PLANNING THAT IS IN THEIR BEST INTEREST.

28 (3) THE ADMINISTRATIVE OFFICE OF THE COURTS:

29 (I) SHALL ADMINISTER THE PROGRAM;

30 (II) SHALL REPORT ANNUALLY TO THE CHIEF JUDGE OF THE
31 COURT OF APPEALS AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT
32 ARTICLE, TO THE GENERAL ASSEMBLY REGARDING THE OPERATION OF THE
33 PROGRAM; AND

34 (III) MAY ADOPT RULES GOVERNING THE IMPLEMENTATION AND
35 OPERATION OF THE PROGRAM INCLUDING FUNDING, TRAINING, SELECTION, AND
36 SUPERVISION OF VOLUNTEERS.

1 (C) (1) THE GOVERNOR MAY INCLUDE FUNDS IN THE BUDGET TO CARRY
2 OUT THE PROVISIONS OF THIS SECTION.

3 (2) ANY STATE FUNDS AVAILABLE FOR THIS PROGRAM SHALL BE
4 ALLOCATED TO THE COUNTIES ON A 50% COST SHARING BASIS.

5 (D) AN ADVOCATE OR A MEMBER OF THE ADMINISTRATIVE STAFF OF THE
6 PROGRAM IS NOT LIABLE FOR AN ACT OR OMISSION IN PROVIDING SERVICES OR
7 PERFORMING A DUTY ON BEHALF OF THE PROGRAM, UNLESS THE ACT OR OMISSION
8 CONSTITUTES RECKLESS, WILLFUL, OR WANTON MISCONDUCT OR INTENTIONALLY
9 TORTIOUS CONDUCT.

10 COMMITTEE NOTE: This section was derived from former CJ § 3-834.1.

11 The Committee recommends the repeal of the requirement of local
12 matching funds as of the fiscal year in which supplemental State funding
13 becomes available. See §§ 5 and 10 of this Act.

14 SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland
15 read as follows:

16 **Article - Courts and Judicial Proceedings**

17 3-813.

18 (c) The Office of the Public Defender may not represent a party in a CINA
19 proceeding unless THE PARTY:

20 (1) [The party is] IS the [custodial] parent or guardian of the alleged
21 CINA;

22 (2) [The proceeding is:

23 (i) Under § 3-815, § 3-817, or § 3-819 of this subtitle; or

24 (ii) Under Maryland Rule 11-115 or Maryland Rule 11-116 in
25 which:

26 1. The State has moved to remove the child from a parent's
27 or guardian's custody or the parent or guardian has moved to regain custody; and

28 2. Due to a complex factual or legal issue, assistance of
29 counsel is necessary to ensure against a risk of erroneous deprivation of custody;

30 (3) [The party applies] APPLIES to the Office of the Public Defender
31 requesting legal representation by the Public Defender in the proceeding; and

32 [(4)] (3) [The party is] IS financially eligible for the services of the
33 Public Defender.

1 SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland
2 read as follows:

3 **Article - Courts and Judicial Proceedings**

4 3-830.

5 (c) [(1)] The Governor may include funds in the budget to carry out the
6 provisions of this section.

7 [(2)] Any State funds available for this program shall be allocated to the
8 counties on a 50% cost sharing basis.]

9 SECTION 6. AND BE IT FURTHER ENACTED, That the Laws of Maryland
10 read as follows:

11 **Article - Courts and Judicial Proceedings**

12 SUBTITLE 8A. JUVENILE CAUSES - CHILDREN OTHER THAN CINAS AND ADULTS.

13 [3-801.] 3-8A-01.

14 (a) In this subtitle[,] the following words have the meanings indicated, unless
15 the context of their use indicates otherwise.

16 (b) "Adjudicatory hearing" means a hearing UNDER THIS SUBTITLE to
17 determine whether the allegations in the petition, other than allegations that the
18 child requires [the court's assistance,] treatment, guidance or rehabilitation, are
19 true.

20 (c) "Adult" means [a person] AN INDIVIDUAL who is AT LEAST 18 years old
21 [or older].

22 (d) "Child" means [a person] AN INDIVIDUAL under the age of 18 years.

23 [(e)] "Child in need of assistance" is a child who requires the assistance of the
24 court because:

25 (1) The child is mentally handicapped or is not receiving ordinary and
26 proper care and attention, and

27 (2) The child's parents, guardian, or custodian are unable or unwilling to
28 give proper care and attention to the child and the child's problems provided, however,
29 a child shall not be deemed to be in need of assistance for the sole reason that the
30 child is being furnished nonmedical remedial care and treatment recognized by State
31 law.]

32 [(f)] (E) "Child in need of supervision" is a child who requires guidance,
33 treatment, or rehabilitation and:

- 1 (1) Is required by law to attend school and is habitually truant;
- 2 (2) Is habitually disobedient, ungovernable, and beyond the control of
3 the person having custody of him;
- 4 (3) Departs himself so as to injure or endanger himself or others; or
- 5 (4) Has committed an offense applicable only to children.
- 6 [(g)] (F) "Citation" means the written form issued by a police officer which
7 serves as the initial pleading against a child for a violation and which is adequate
8 process to give the court jurisdiction over the person cited.
- 9 [(h)] (G) "Commit" means to transfer legal custody.
- 10 [(i)] (H) "Court" means [the]:
- 11 (1) A circuit court [of] FOR a county [or Baltimore City] sitting as the
12 juvenile court[. In]; OR
- 13 (2) IN Montgomery County, [it means] the District Court sitting as the
14 juvenile court and following the applicable rules of the circuit court.
- 15 [(j)] (I) "Custodian" means a person or agency to whom legal custody of a
16 child has been given by order of the court, other than the child's parent or legal
17 guardian.
- 18 [(k)] (J) "Delinquent act" means an act which would be a crime if committed
19 by an adult.
- 20 [(l)] (K) "Delinquent child" is a child who has committed a delinquent act and
21 requires guidance, treatment, or rehabilitation.
- 22 [(m)] (L) "Detention" means the temporary care of children who, pending court
23 disposition, require secure custody for the protection of themselves or the community,
24 in physically restricting facilities.
- 25 [(n)] (M) "Disposition hearing" means a hearing UNDER THIS SUBTITLE to
26 determine:
- 27 (1) Whether a child needs or requires [the court's assistance,] guidance,
28 [treatment] TREATMENT, or rehabilitation; and if so
- 29 (2) The nature of the [assistance,] guidance, [treatment] TREATMENT,
30 or rehabilitation.
- 31 [(o)] (N) "Intake officer" means the person assigned to the court by the
32 Department of Juvenile Justice to provide the intake services set forth in this
33 subtitle.

1 [(p) "Local department" means the local department of social services for the
2 jurisdiction in which the court is located.]

3 [(q) (O) "Mentally handicapped child" means a child who is or may be
4 mentally retarded or mentally ill.

5 [(r) (P) "Party" includes a child who is the subject of a petition or a peace
6 order request, the child's parent, guardian, or custodian, the petitioner and an adult
7 who is charged under [§ 3-831] § 3-8A-30 of this subtitle.

8 [(s) (Q) "Peace order proceeding" means a proceeding under [§ 3-820.2] §
9 3-8A-19.2 or [§ 3-820.4] § 3-8A-19.4 of this subtitle.

10 [(t) (R) "Peace order request" means the initial pleading filed with the court
11 under [§ 3-820.1] § 3-8A-19.1 of this subtitle.

12 [(u) (S) "Petition" means the pleading filed with the court under [§ 3-812] §
13 3-8A-13 of this subtitle alleging that a child is a delinquent child[, a child in need of
14 assistance] or a child in need of supervision OR THAT AN ADULT VIOLATED § 3-8A-30
15 OF THIS SUBTITLE.

16 [(v) (T) "Respondent" means the individual against whom a petition or a
17 peace order request is filed.

18 [(w) (U) (1) "Shelter care" means the temporary care of children in
19 physically unrestricting facilities.

20 (2) "Shelter care" does not mean care in a State mental health facility.

21 [(x) (V) (1) "Victim" means:

22 (i) A person who suffers direct or threatened physical, emotional,
23 or financial harm as a result of a delinquent act; or

24 (ii) An individual against whom an act specified in [§ 3-820.1(b)] §
25 3-8A-19.1(B) of this subtitle is committed or alleged to have been committed.

26 (2) "Victim" includes a family member of a minor, disabled, or a deceased
27 victim.

28 (3) "Victim" includes, if the victim is not an individual, the victim's agent
29 or designee.

30 [(y) (W) "Violation" means a violation of ARTICLE 27, § 400, § 400A, § 400B, §
31 401, or § 406 [of Article 27] of the Code [and] OR § 26-103 of the Education Article for
32 which a citation is issued.

33 [(z) (X) "Witness" means any person who is or expects to be a State's witness.

1 [3-802.] 3-8A-02.

2 (a) The purposes of this subtitle are:

3 (1) To ensure that the Juvenile Justice System balances the following
4 objectives for children who have committed delinquent acts:

5 (i) Public safety and the protection of the community;

6 (ii) Accountability of the child to the victim and the community for
7 offenses committed; and

8 (iii) Competency and character development to assist children in
9 becoming responsible and productive members of society;

10 (2) To hold parents of children found to be delinquent responsible for the
11 child's behavior and accountable to the victim and the community;

12 (3) To hold parents of children found to be delinquent or in need of
13 [assistance or] supervision responsible, where possible, for remedying the
14 circumstances that required the court's intervention;

15 (4) To provide for the care, protection, and wholesome mental and
16 physical development of children coming within the provisions of this subtitle; and to
17 provide for a program of treatment, training, and rehabilitation consistent with the
18 child's best interests and the protection of the public interest;

19 (5) To conserve and strengthen the child's family ties and to separate a
20 child from his parents only when necessary for his welfare or in the interest of public
21 safety;

22 (6) If necessary to remove a child from his home, to secure for him
23 custody, care, and discipline as nearly as possible equivalent to that which should
24 have been given by his parents; and

25 (7) To provide judicial procedures for carrying out the provisions of this
26 subtitle.

27 (b) This subtitle shall be liberally construed to effectuate these purposes.

28 [3-804.] 3-8A-03.

29 (a) [The] IN ADDITION TO THE JURISDICTION SPECIFIED IN SUBTITLE 8 OF
30 THIS TITLE, THE court has exclusive original jurisdiction over:

31 (1) A child WHO IS alleged to be delinquent[,] OR in need of
32 supervision[, in need of assistance] or who has received a citation for a violation;

33 (2) [With respect to any child who is under the jurisdiction of the
34 juvenile court and previously has been adjudicated a child in need of assistance, all
35 termination of parental rights proceedings and related adoption proceedings; and

1 (3) Except as provided in subsection [(e)(6)] (D)(6) of this section, a peace
2 order proceeding in which the respondent is a child; AND

3 [(b) The court has exclusive original jurisdiction over proceedings]

4 (3) PROCEEDINGS arising under the Interstate Compact on Juveniles.

5 [(c)] (B) The court has concurrent jurisdiction over proceedings against an
6 adult for the violation of [§ 3-831] § 3-8A-30 of this subtitle. However, the court may
7 waive its jurisdiction under this subsection upon its own motion or upon the motion of
8 any party to the proceeding, if charges against the adult arising from the same
9 incident are pending in the criminal court. Upon motion by either the State's Attorney
10 or the adult charged under [§ 3-831] § 3-8A-30 OF THIS SUBTITLE, the court shall
11 waive its jurisdiction, and the adult shall be tried in the criminal court according to
12 the usual criminal procedure.

13 [(d)] (C) The jurisdiction of the court is concurrent with that of the District
14 Court in any criminal case arising under the compulsory public school attendance
15 laws of this State.

16 [(e)] (D) The court does not have jurisdiction over:

17 (1) A child at least 14 years old alleged to have done an act which, if
18 committed by an adult, would be a crime punishable by death or life imprisonment, as
19 well as all other charges against the child arising out of the same incident, unless an
20 order removing the proceeding to the court has been filed under Article 27, § 594A of
21 the Code;

22 (2) A child at least 16 years old alleged to have done an act in violation of
23 any provision of the Transportation Article or other traffic law or ordinance, except an
24 act that prescribes a penalty of incarceration;

25 (3) A child at least 16 years old alleged to have done an act in violation of
26 any provision of law, rule, or regulation governing the use or operation of a boat,
27 except an act that prescribes a penalty of incarceration;

28 (4) A child at least 16 years old alleged to have committed any of the
29 following crimes, as well as all other charges against the child arising out of the same
30 incident, unless an order removing the proceeding to the court has been filed under
31 Article 27, § 594A of the Code:

32 (i) Abduction;

33 (ii) Kidnapping;

34 (iii) Second degree murder;

35 (iv) Manslaughter, except involuntary manslaughter;

36 (v) Second degree rape;

- 1 (vi) Robbery under Article 27, § 487 of the Code;
- 2 (vii) Second degree sexual offense in violation of Article 27, §
3 464A(a)(1) of the Code;
- 4 (viii) Third degree sexual offense in violation of Article 27, §
5 464B(a)(1) of the Code;
- 6 (ix) A crime in violation of Article 27, § 36B, § 373, § 374, § 445, §
7 446, or § 481C of the Code;
- 8 (x) Using, wearing, carrying, or transporting of firearm during and
9 in relation to a drug trafficking crime in violation of Article 27, § 281A of the Code;
- 10 (xi) Use of a firearm in violation of Article 27, § 291A of the Code;
- 11 (xii) Carjacking or armed carjacking in violation of Article 27, § 348A
12 of the Code;
- 13 (xiii) Assault in the first degree in violation of Article 27, § 12A-1 of
14 the Code;
- 15 (xiv) Attempted murder in the second degree in violation of Article
16 27, § 411A of the Code;
- 17 (xv) Attempted rape or attempted sexual offense in the second
18 degree under Article 27, § 464F of the Code; or
- 19 (xvi) Attempted robbery under Article 27, § 487 of the Code;
- 20 (5) A child who previously has been convicted as an adult of a felony and
21 is subsequently alleged to have committed an act that would be a felony if committed
22 by an adult, unless an order removing the proceeding to the court has been filed
23 under Article 27, § 594A of the Code; or
- 24 (6) A peace order proceeding in which the victim, as defined in[§
25 3-801(x)(1)(ii)] § 3-8A-01(V)(1)(II) of this subtitle, is a person eligible for relief, as
26 defined in § 4-501 of the Family Law Article.
- 27 [(f)] (E) If the child is charged with two or more violations of the Maryland
28 Vehicle Law, another traffic law or ordinance, or the State Boat Act, allegedly arising
29 out of the same incident and which would result in the child being brought before both
30 the court and a court exercising criminal jurisdiction, the court has exclusive
31 jurisdiction over all of the charges.

32 3-8A-04.

33 THE PROVISIONS OF §§ 3-806, 3-807, AND 3-829 OF THIS TITLE GOVERN JUDGES,
34 MASTERS, AND LOCAL JUVENILE COURT COMMITTEES UNDER THIS SUBTITLE.

1 [3-805.] 3-8A-05.

2 (a) If a person is alleged to be delinquent, the age of the person at the time the
3 alleged delinquent act was committed controls the determination of jurisdiction under
4 this subtitle.

5 (b) If a person is alleged to have committed an act under [§ 3-820.1(b)] §
6 3-8A-19.1(B) of this subtitle, the age of the person at the time the alleged act was
7 committed controls the determination of jurisdiction under this subtitle.

8 (c) In all other cases UNDER THIS SUBTITLE the age of the child at the time
9 the petition is filed controls the determination of jurisdiction under this subtitle.

10 (d) In a delinquency proceeding there is no presumption of incapacity as a
11 result of infancy for a child who is at least 7 years old.

12 [3-817.] 3-8A-06.

13 (a) The court may waive the exclusive jurisdiction conferred by [§ 3-804] §
14 3-8A-03 of this subtitle with respect to a petition alleging delinquency by:

15 (1) A child who is 15 years old or older; or

16 (2) A child who has not reached his 15th birthday, but who is charged
17 with committing an act which if committed by an adult, would be punishable by death
18 or life imprisonment.

19 (b) The court may not waive its jurisdiction UNDER THIS SECTION until after
20 it has conducted a waiver hearing, held prior to an adjudicatory hearing and after
21 notice has been given to all parties as prescribed by the Maryland Rules. The waiver
22 hearing is solely to determine whether the court should waive its jurisdiction.

23 (c) (1) Notice of the waiver hearing shall be given to a victim as provided
24 under Article 27, § 770 of the Code.

25 (2) (i) A victim may submit a victim impact statement to the court as
26 provided in Article 27, § 781 of the Code.

27 (ii) This paragraph does not preclude a victim who has not filed a
28 notification request form under Article 27, § 770 of the Code from submitting a victim
29 impact statement to the court.

30 (iii) The court may consider a victim impact statement in
31 determining whether to waive jurisdiction under this section.

32 (d) (1) The court may not waive its jurisdiction UNDER THIS SECTION unless
33 it determines, from a preponderance of the evidence presented at the hearing, that
34 the child is an unfit subject for juvenile rehabilitative measures.

1 (2) For purposes of determining whether to waive its jurisdiction UNDER
2 THIS SECTION, the court shall assume that the child committed the delinquent act
3 alleged.

4 (e) In making its determination, the court shall consider the following criteria
5 individually and in relation to each other on the record:

6 (1) Age of the child;

7 (2) Mental and physical condition of the child;

8 (3) The child's amenability to treatment in any institution, facility, or
9 program available to delinquents;

10 (4) The nature of the offense and the child's alleged participation in it;
11 and

12 (5) The public safety.

13 (f) If [the] jurisdiction is waived UNDER THIS SECTION, the court shall order
14 the child held for trial under the regular procedures of the court which would have
15 jurisdiction over the offense if committed by an adult. The petition alleging
16 delinquency shall be considered a charging document for purposes of detaining the
17 child pending a bail hearing.

18 (g) An order waiving jurisdiction is interlocutory.

19 (h) If the court has once waived its jurisdiction with respect to a child in
20 accordance with this section, and that child is subsequently brought before the court
21 on another charge of delinquency, the court may waive its jurisdiction in the
22 subsequent proceeding after summary review.

23 [3-806.] 3-8A-07.

24 (a) If the court obtains jurisdiction over a child UNDER THIS SUBTITLE, that
25 jurisdiction continues until that person reaches 21 years of age unless terminated
26 sooner.

27 (b) This section does not affect the jurisdiction of other courts over a person
28 who commits an offense after [he] THE PERSON reaches the age of 18.

29 (c) Unless otherwise ordered by the court, the court's jurisdiction is
30 terminated over a person who has reached 18 years of age when he is convicted of a
31 crime, including manslaughter by automobile, unauthorized use or occupancy of a
32 motor vehicle, or operating a vehicle while under the influence of intoxicating liquors
33 or drugs, but excluding a conviction for a violation of any other traffic law or
34 ordinance or any provision of the State Boat Act, or the fish and wildlife laws of the
35 State.

1 [(d) If the court in a child in need of assistance proceeding places a child in the
2 care and custody of a person other than the parent, guardian, or custodian who had
3 custody at the time the petition is filed, the custody order of the court shall continue
4 after the termination of the child in need of assistance proceeding unless:

5 (1) The custody order is terminated by the court; or

6 (2) The custody order is modified by an order of any other court with
7 jurisdiction.]

8 [3-807.]

9 [(a) (D) A person subject to the jurisdiction of the court may not be prosecuted
10 for a criminal offense committed before he reached 18 years of age unless jurisdiction
11 has been waived.

12 [(b) (E) The court has exclusive original jurisdiction, but only for the purpose
13 of waiving it, over a person 21 years of age or older who is alleged to have committed
14 a delinquent act while a child.

15 [3-808.] 3-8A-08.

16 (a) If a petition alleges that a child is [in need of assistance or] in need of
17 supervision, the petition shall be filed in the county where the child resides.

18 (b) If delinquency or violation of [§ 3-831] § 3-8A-30 OF THIS SUBTITLE is
19 alleged or if a citation is issued, the petition, if any, or the citation shall be filed in the
20 county where the alleged act occurred subject to transfer as provided in [§ 3-809] §
21 3-8A-09 OF THIS SUBTITLE.

22 (c) A peace order request shall be filed in the county where the alleged act
23 occurred subject to transfer as provided in [§ 3-809] § 3-8A-09 of this subtitle.

24 (d) If the alleged delinquent act is escape or attempted escape from a training
25 school or similar facility operated by the Department of Juvenile Justice, the petition,
26 if any, shall be filed and the adjudicatory hearing held in the county where the alleged
27 escape or attempted escape occurred unless the court in the county of the child's
28 domicile requests a transfer. For purposes of the disposition hearing, proceedings may
29 be transferred as provided in [§ 3-809] § 3-8A-09 OF THIS SUBTITLE to the court
30 exercising jurisdiction over the child at the time of the alleged act.

31 [3-809.] 3-8A-09.

32 (a) (1) If a petition, peace order request, or citation is filed UNDER THIS
33 SUBTITLE in a county other than the county where the child is living or domiciled, the
34 court on its own motion or on motion of a party, may transfer the proceedings to the
35 county of residence or domicile at any time prior to final termination of jurisdiction,
36 except that the proceedings may not be transferred until after an adjudicatory
37 hearing if the allegation is escape or attempted escape from a training school or
38 similar facility operated by the Department of Juvenile Justice.

1 (2) In its discretion, the court to which the case is transferred may take
2 further action.

3 (b) Every document, social history, and record on file with the clerk of THE
4 court pertaining to the case shall accompany the transfer.

5 [3-810.] 3-8A-10.

6 (A) THIS SECTION DOES NOT APPLY TO ALLEGATIONS THAT A CHILD IS IN
7 NEED OF ASSISTANCE, AS DEFINED IN § 3-801 OF THIS TITLE.

8 [(a) Except as provided in subsection (b) of this section, the]

9 (B) AN intake officer shall receive:

10 (1) Complaints from a person or agency having knowledge of facts which
11 may cause a person to be subject to the jurisdiction of the court UNDER THIS
12 SUBTITLE; and

13 (2) Citations issued by a police officer under [§ 3-835] § 3-8A-33 of this
14 [article] SUBTITLE.

15 [(b) The local department of social services shall only receive complaints which
16 allege that a child is in need of assistance. Upon receipt and consideration of a
17 complaint, the local department shall:

18 (1) File a petition;

19 (2) Authorize the person or agency making the complaint to file a
20 petition; or

21 (3) Deny authorization to file the petition.]

22 (c) (1) Except as otherwise provided in this subsection, in considering the
23 complaint, the intake officer shall make an inquiry within 25 days as to whether the
24 court has jurisdiction and whether judicial action is in the best interests of the public
25 or the child.

26 (2) An inquiry need not include an interview of the child who is the
27 subject of the complaint if the complaint alleges the commission of an act that would
28 be a felony if committed by an adult or alleges a violation of Article 27, § 36B of the
29 Code.

30 (3) In accordance with this section, the intake officer may, after such
31 inquiry and within 25 days of receiving the complaint:

32 (i) Authorize the filing of a petition or a peace order request or
33 both;

34 (ii) Propose an informal adjustment of the matter; or

1 (iii) Refuse authorization to file a petition or a peace order request
2 or both.

3 (4) (i) If a complaint is filed that alleges the commission of an act
4 which would be a felony if committed by an adult or alleges a violation of Article 27,
5 § 36B of the Code, and if the intake officer denies authorization to file a petition or
6 proposes an informal adjustment, the intake officer shall immediately:

7 1. Forward the complaint to the State's Attorney; and

8 2. Forward a copy of the entire intake case file to the State's
9 Attorney with information as to any and all prior intake involvement with the child.

10 (ii) The State's Attorney shall make a preliminary review as to
11 whether the court has jurisdiction and whether judicial action is in the best interests
12 of the public or the child. The need for restitution may be considered as one factor in
13 the public interest. After the preliminary review the State's Attorney shall, within 30
14 days of the receipt of the complaint by the State's Attorney, unless the court extends
15 the time:

16 1. File a petition or a peace order request or both;

17 2. Refer the complaint to the Department of Juvenile Justice
18 for informal disposition; or

19 3. Dismiss the complaint.

20 (iii) This subsection may not be construed or interpreted to limit the
21 authority of the State's Attorney to seek a waiver under [§ 3-817] § 3-8A-06 of this
22 subtitle.

23 (c-1) (1) In this subsection, "seriously emotionally disturbed" has the meaning
24 stated in § 15-130 of the Health - General Article.

25 (2) (i) As soon as possible and in no event later than 25 days after
26 receipt of a complaint, the intake officer shall discuss with the child who is the subject
27 of a complaint and the child's parent or guardian information regarding a referral for
28 a mental health and substance abuse screening of the child.

29 (ii) The screening authorized under subparagraph (i) of this
30 paragraph shall be conducted by a person who:

31 1. Has been selected by the child's parent or guardian;

32 2. Has been approved by the child's health insurance carrier;
33 and

34 3. Is:

35 A. A qualified health, mental health, or substance abuse
36 professional; or

- 1 (ii) The parent, guardian, or custodian of the child who is the
2 subject of the complaint;
- 3 (iii) The victim;
- 4 (iv) The arresting police officer; and
- 5 (v) The person or agency that filed the complaint or caused it to be
6 filed.

7 (e) (1) The intake officer may propose an informal adjustment of the matter
8 if based on the complaint and the inquiry, the intake officer concludes that the court
9 has jurisdiction but that an informal adjustment, rather than judicial action, is in the
10 best interests of the public and the child.

11 (2) The intake officer shall propose an informal adjustment by informing
12 the victim, the child, and the child's parent or guardian of the nature of the complaint,
13 the objectives of the adjustment process, and the conditions and procedures under
14 which it will be conducted.

15 (3) The intake officer may not proceed with an informal adjustment
16 unless the victim, the child, and the child's parent or guardian consent to the informal
17 adjustment procedure.

18 (f) (1) During the informal adjustment process, the child shall be subject to
19 such supervision as the intake officer deems appropriate and if the intake officer
20 decides to have an intake conference, the child and the child's parent or guardian
21 shall appear at the intake conference.

22 (2) The informal adjustment process may not exceed 90 days unless that
23 time is extended by the court.

24 (3) If the victim, the child, and the child's parent or guardian do not
25 consent to an informal adjustment, the intake officer shall authorize the filing of a
26 petition or a peace order request or both or deny authorization to file a petition or a
27 peace order request or both under subsection (g) of this section.

28 (4) If at any time before the completion of an agreed upon informal
29 adjustment the intake officer believes that the informal adjustment cannot be
30 completed successfully, the intake officer shall authorize the filing of a petition or a
31 peace order request or both or deny authorization to file a petition or a peace order
32 request or both under subsection (g) of this section.

33 (g) (1) If based upon the complaint and the inquiry, the intake officer
34 concludes that the court has no jurisdiction, or that neither an informal adjustment
35 nor judicial action is appropriate, the intake officer may deny authorization to file a
36 petition or a peace order request or both.

1 (2) If the intake officer denies authorization to file a petition or a peace
2 order request or both, the intake officer shall inform the following persons of the
3 decision, the reasons for it, and their right of review provided in this section:

4 (i) The victim;

5 (ii) The arresting police officer; and

6 (iii) The person or agency that filed the complaint or caused it to be
7 filed.

8 (3) The intake officer shall inform the persons specified in paragraph (2)
9 of this subsection of the decision to deny authorization to file a petition for the alleged
10 commission of a delinquent act through use of the form prescribed by [§ 3-810.1] §
11 3-8A-11 of this subtitle.

12 (h) (1) If the complaint alleges the commission of a delinquent act and the
13 intake officer denies authorization to file a petition, the following persons may appeal
14 the denial to the State's Attorney:

15 (i) The victim;

16 (ii) The arresting police officer; and

17 (iii) The person or agency that filed the complaint or caused it to be
18 filed.

19 (2) In order for an appeal to be made, it must be received by the State's
20 Attorney's office within 30 days after the form prescribed by [§ 3-810.1] § 3-8A-11 of
21 this subtitle is mailed by the juvenile intake officer to the person being informed of
22 the intake officer's decision.

23 (3) (i) The State's Attorney shall review the denial.

24 (ii) If the State's Attorney concludes that the court has jurisdiction
25 and that judicial action is in the best interests of the public or the child, the State's
26 Attorney may file a petition.

27 (iii) This petition shall be filed within 30 days of the receipt of the
28 complainant's appeal.

29 (i) (1) If authorization to file a petition for a complaint which alleges a child
30 is in need of supervision or if authorization to file a peace order request is denied, the
31 person or agency that filed the complaint or caused it to be filed, within 15 days of
32 personal notice of the denial to that person or agency or the mailing to the last known
33 address, may submit the denial for review by the Department of Juvenile Justice Area
34 Director for the area in which the complaint was filed.

35 (2) The Department of Juvenile Justice Area Director shall review the
36 denial.

1 (3) If, within 15 days, the Department of Juvenile Justice Area Director
2 concludes that the court has jurisdiction and that judicial action is in the best
3 interests of the public and the child, the Department of Juvenile Justice Area Director
4 may authorize the filing of a petition in writing.

5 (4) The petition shall be filed within 5 days of the decision.

6 [(j) (1) If authorization to file a petition for a complaint which alleges a child
7 is in need of assistance is denied, the person or agency that filed the complaint or
8 caused it to be filed, within 15 days of personal notice of the denial to that person or
9 agency or the mailing to the last known address, may submit the denial to the
10 Department of Juvenile Justice Area Director for the area in which the complaint was
11 filed.

12 (2) The Area Director shall authorize the filing of the petition.

13 (3) The petition shall be filed within 5 days of the submission of the
14 denial to the Department of Juvenile Justice Area Director.]

15 [(k) (J) (1) If the complaint alleges that a minor 16 years of age or older has
16 committed an act in violation of any provision of the Maryland Vehicle Law or other
17 traffic law or ordinance under the jurisdiction of the juvenile court, the complaint
18 shall be filed directly with the State's Attorney of the jurisdiction in which the alleged
19 violation occurred.

20 (2) If the State's Attorney elects to proceed with the case, the State's
21 Attorney may prepare a petition for filing with the court of proper jurisdiction.

22 [(l) (K) (1) If the intake officer receives a citation other than a citation
23 authorized under Article 27, § 406 of the Code, the intake officer may:

24 [(1) (I) Refer the child to an alcohol education or rehabilitation
25 program;

26 [(2) (II) Assign the child to a supervised work program for not more
27 than 20 hours for the first violation and not more than 40 hours for the second or
28 subsequent violation;

29 [(3) (III) Require the parent or guardian of the child to withdraw the
30 parent's or guardian's consent to the child's license to drive, and advise the Motor
31 Vehicle Administration of the withdrawal of consent; or

32 [(4) (IV) Forward the citation to the State's Attorney.

33 [(m) (2) The intake officer shall forward the citation, other than a citation
34 authorized under Article 27, § 406 of the Code, to the State's Attorney if:

35 [(1) (I) The parent or guardian of the child refuses to withdraw consent
36 to the child's license to drive;

1 [(2)] (II) The child fails to comply with an alcohol education or
2 rehabilitation program referral; or

3 [(3)] (III) The child fails to comply with a supervised work program
4 assignment.

5 [(n)] (L) (1) If the intake officer receives a citation authorized under
6 Article 27, § 406 of the Code, the intake officer may:

7 [(1)] (I) Refer the child to a smoking cessation clinic, or other suitable
8 presentation of the hazards associated with tobacco use;

9 [(2)] (II) Assign the child to a supervised work program for not more
10 than 20 hours for the first violation and not more than 40 hours for a second or
11 subsequent violation; or

12 [(3)] (III) Forward the citation to the State's Attorney.

13 [(o)] (2) The intake officer shall forward the citation authorized under Article
14 27, § 406 of the Code to the State's Attorney if the child fails to comply with a smoking
15 program referral or a supervised work program assignment described under
16 [subsection (n)] PARAGRAPH (1) of this [section] SUBSECTION.

17 [(p)] (M) (1) Except as provided in paragraph (2) of this subsection, within
18 15 days after a law enforcement officer takes a child into custody UNDER THIS
19 SUBTITLE the law enforcement officer shall file a complaint with an intake officer.

20 (2) If a child is referred to a diversion program, the law enforcement
21 officer may file the complaint with an intake officer more than 30 days after but no
22 later than 120 days after the law enforcement officer took the child into custody.

23 [(q)] (N) The court may dismiss a petition or a peace order request for failure
24 to comply with this section only if the respondent has demonstrated actual prejudice.

25 [3-810.1.] 3-8A-11.

26 (a) An intake officer shall use the following form to inform persons, in
27 accordance with [§ 3-810] § 3-8A-10 OF THIS SUBTITLE, of his decision to deny
28 authorization to file a petition for the alleged commission of a delinquent act:

29 \tab

Date: (Date form is mailed)

30 Re:

31 Offense No.:

32 Date of Offense:

33 Nature of Offense:

34

35

36

37 Dear

1 I have reviewed the facts concerning the offense referred to above and have
2 decided not to authorize juvenile court action. This decision included consideration of
3 the facts of the case and the juvenile's involvement. Home, school, and community
4 adjustment along with parental concern and control were examined. Past history with
5 the police and court was also considered.

6 The reasons for this decision are as follows:

7 The juvenile was issued a reprimand and warned against future involvement
8 in delinquent activities.

9 The juvenile is currently under supervision of the juvenile court.

10 The juvenile will receive informal supervision by this intake officer. This will
11 include counseling, and possibly referral to a program or agency to further
12 work with problems seen as important to the juvenile's future adjustment.

13 The juvenile has successfully completed a pretrial program of intensive
14 counseling and supervision of 45 to 90 days, and has shown a satisfactory
15 adjustment during this time.

16 This case is not legally sufficient.

17 Additional Comments:
18
19

20 If you disagree with this decision and desire to appeal, you must fill in the form
21 provided below and send it to the State's Attorney's office so that it is received in that
22 office by
(Date)

23 If you have any questions or want to talk about this case with me before making
24 a decision on whether to appeal, please call me at.....
(Phone Number)

25 However, if you do this, it will not extend the 30-day period within which you are
26 allowed to appeal.

27 \tab Sincerely,

28
29 Intake Officer
30

31

32 If you disagree with the above decision of the intake officer, fill out the form
33 below and send it to:

34 (To be filled in
35 by intake officer

1 prior to mailing
2 (Name and to person being
3 address of appropriate informed of intake
4 State's Attorney authority) decision)

5 Re: (To be filled in
6 Offense: by intake officer
7 Date of Offense: prior to mailing
8 Nature of Offense: to person being
informed of intake
decision)

9 I have been informed by the juvenile intake officer of his decision not to forward
10 this case for action in the juvenile court.

11 I disagree with this decision and ask that the State's Attorney's office review it
12 and decide whether court proceedings should be carried out.

13 \tab \tab

14 Signed

15 (b) The use of the form prescribed by subsection (a) of this section does not
16 preclude the Department of Juvenile Justice from sending other information, in
17 addition to this form, to explain the intake officer's decision and advise persons of
18 their right to appeal the decision of the intake officer.

19 [3-811.] 3-8A-12.

20 (a) A statement made by a participant while counsel and advice are being
21 given, offered, or sought, in the discussions or conferences incident to an informal
22 adjustment may not be admitted in evidence in any adjudicatory hearing or peace
23 order proceeding or in a criminal proceeding against the participant prior to
24 conviction.

25 (b) Any information secured or statement made by a participant during a
26 preliminary or further inquiry pursuant to [§ 3-810] § 3-8A-10 of this subtitle or a
27 study pursuant to [§ 3-818] § 3-8A-17 of this subtitle may not be admitted in
28 evidence in any adjudicatory hearing or peace order proceeding except on the issue of
29 respondent's competence to participate in the proceedings and responsibility for his
30 conduct as provided in § 12-108 of the Health - General Article where a petition
31 alleging delinquency has been filed, or in a criminal proceeding prior to conviction.

32 (c) A statement made by a child, his parents, guardian or custodian at a
33 waiver hearing is not admissible against him or them in criminal proceedings prior to
34 conviction except when the person is charged with perjury, and the statement is
35 relevant to that charge and is otherwise admissible.

36 (d) If jurisdiction is not waived, any statement made by a child, his parents,
37 guardian, or custodian at a waiver hearing may not be admitted in evidence in any

1 adjudicatory hearing unless a delinquent offense of perjury is alleged, and the
2 statement is relevant to that charge and is otherwise admissible.

3 [3-812.] 3-8A-13.

4 (a) A petition shall allege that a child is either delinquent[, or in need of
5 assistance,] or in need of supervision. If it alleges delinquency, it shall set forth in
6 clear and simple language the alleged facts which constitute the delinquency, and
7 shall also specify the laws allegedly violated by the child. If it alleges that the child is
8 [in need of assistance or] in need of supervision, the petition shall set forth in clear
9 and simple language the alleged facts supporting that allegation.

10 (b) Petitions alleging delinquency or violation of [§ 3-831] § 3-8A-30 of this
11 subtitle shall be prepared and filed by the State's Attorney. A petition alleging
12 delinquency shall be filed within 30 days after the receipt of a referral from the
13 intake officer, unless that time is extended by the court for good cause shown.
14 Petitions alleging that a child is in need of supervision shall be filed by the intake
15 officer. [Petitions alleging that a child is in need of assistance shall be filed by the
16 local department. If the local department does not file the petition, the person or
17 agency that made the complaint to the local department may submit the denial to the
18 Department of Juvenile Justice Area Director for filing.]

19 (c) A peace order request shall be filed by the intake officer in accordance with
20 [§ 3-820.1(b)(1)] § 3-8A-19.1(B)(1) of this subtitle or the State's Attorney in accordance
21 with [§ 3-820.1(b)(2)] § 3-8A-19.1(B)(2) of this subtitle.

22 (d) The form of petitions, peace order requests, and all other pleadings UNDER
23 THIS SUBTITLE, and except as otherwise provided in this subtitle, the procedures to
24 be followed by the court UNDER THIS SUBTITLE, shall be as specified in the Maryland
25 Rules.

26 (e) The State's Attorney, upon assigning the reasons, may dismiss in open
27 court a petition alleging delinquency.

28 (f) (1) The court shall conduct all hearings UNDER THIS SUBTITLE in an
29 informal manner.

30 (2) In any proceeding in which a child is alleged to be in need of
31 supervision [or assistance] or to have committed a delinquent act that would be a
32 misdemeanor if committed by an adult or in a peace order proceeding, the court may
33 exclude the general public from a hearing, and admit only the victim and those
34 persons having a direct interest in the proceeding and their representatives.

35 (3) Except as provided in paragraph (4) of this subsection, in a case in
36 which a child is alleged to have committed a delinquent act that would be a felony if
37 committed by an adult, the court shall conduct in open court any hearing or other
38 proceeding at which the child has a right to appear.

39 (4) For good cause shown, the court may exclude the general public from
40 a hearing or other proceeding in a case in which a child is alleged to have committed

1 a delinquent act that would be a felony if committed by an adult and admit only the
2 victim and those persons having a direct interest in the proceeding and their
3 representatives.

4 (5) Except as provided in paragraph (6) of this subsection, the court shall
5 announce, in open court, adjudications and dispositions in cases where a child is
6 alleged to have committed a delinquent act which would be a felony if committed by
7 an adult.

8 (6) For good cause shown, the court may exclude the general public from
9 a proceeding at which an adjudication or disposition is announced and admit only the
10 victim and those persons having a direct interest in the proceeding and their
11 representatives.

12 (g) The court shall try cases without a jury.

13 [(h) Whenever a child in need of assistance petition is filed by the local
14 department of social services, the local department shall be a party to the proceeding
15 and shall present to the court the evidence in support of the petition.]

16 [(i) (H) The court shall hear and rule on a petition seeking an order for
17 emergency medical treatment on an expedited basis.

18 [3-814.] 3-8A-14.

19 (a) A child may be taken into custody UNDER THIS SUBTITLE by any of the
20 following methods:

21 (1) Pursuant to an order of the court;

22 (2) By a law enforcement officer pursuant to the law of arrest;

23 (3) By a law enforcement officer or other person authorized by the court
24 if [he] THE OFFICER OR OTHER PERSON has reasonable grounds to believe that the
25 child is in immediate danger from [his] THE CHILD'S surroundings and that [his]
26 THE CHILD'S removal is necessary for [his] THE CHILD'S protection; or

27 (4) By a law enforcement officer or other person authorized by the court
28 if [he] THE OFFICER OR OTHER PERSON has reasonable grounds to believe that the
29 child has run away from [his] THE CHILD'S parents, guardian, or legal custodian.

30 (b) If a law enforcement officer takes a child into custody [he], THE OFFICER
31 shall immediately notify, or cause to be notified, the child's parents, guardian, or
32 custodian of the action. After making every reasonable effort to give notice, the law
33 enforcement officer shall with all reasonable speed:

34 (1) Release the child to [his] THE CHILD'S parents, guardian, or
35 custodian or to any other person designated by the court, upon their written promise
36 to bring the child before the court when requested by the court, and such security for
37 the child's appearance as the court may reasonably require, unless [his] THE CHILD'S

1 placement in detention or shelter care is permitted and appears required by [§
2 3-815] § 3-8A-15 OF THIS SUBTITLE; or

3 (2) Deliver the child to the court or a place of detention or shelter care
4 designated by the court.

5 (c) If a parent, guardian, or custodian fails to bring the child before the court
6 when requested, the court may issue a writ of attachment directing that the child be
7 taken into custody and brought before the court. The court may proceed against the
8 parent, guardian, or custodian for contempt.

9 [3-815.] 3-8A-15.

10 (a) Only the court or an intake officer may authorize detention or shelter care
11 for a child who may be in need of supervision or delinquent. [The local department,
12 pursuant to regulations promulgated by the Department of Human Resources, may
13 authorize shelter care for a child who may be in need of assistance.]

14 (b) If a child is taken into custody UNDER THIS SUBTITLE, the child may be
15 placed in detention prior to a hearing if:

16 (1) Such action is required to protect the child or person and property of
17 others;

18 (2) The child is likely to leave the jurisdiction of the court; or

19 (3) There are no parents, guardian, or custodian or other person able to
20 provide supervision and care for the child and return the child to the court when
21 required.

22 (c) A child taken into custody UNDER THIS SUBTITLE may be placed in
23 emergency shelter care prior to a hearing if:

24 (1) One or more of the circumstances stated in subsection (b) of this
25 section exist; and

26 (2) (i) 1. Continuation of the child in the child's home is contrary to
27 the welfare of the child; and

28 2. Removal of the child from the child's home is reasonable
29 under the circumstances due to an alleged emergency situation and in order to
30 provide for the safety of the child; or

31 (ii) 1. Reasonable[,] but unsuccessful[,] efforts have been made
32 to prevent or eliminate the need for removal from the child's home; and

33 2. As appropriate, reasonable efforts are being made to
34 return the child to the child's home.

1 (d) (1) If the child is not released, the intake officer or the official who
2 authorized detention or shelter care UNDER THIS SECTION shall immediately file a
3 petition to authorize continued detention or shelter care.

4 (2) A hearing on the petition shall be held not later than the next court
5 day, unless extended by the court upon good cause shown.

6 (3) Reasonable notice, oral or written, stating the time, place, and
7 purpose of the hearing, shall be given to the child and, if they can be found, the child's
8 parents, guardian, or custodian.

9 (4) Except as provided in [paragraphs] PARAGRAPH (5) [and (6)] of this
10 subsection, shelter care may not be ordered for a period of more than 30 days unless
11 an adjudicatory or waiver hearing is held.

12 [(5) For a child in need of assistance, shelter care may be extended for an
13 additional period of not more than 30 days if the court finds after a hearing held as
14 part of the adjudication that continued shelter care is necessary to provide for the
15 safety of the child.]

16 [(6) (5) For a child in need of supervision or a delinquent child, shelter
17 care may be extended for an additional period of not more than 30 days if the court
18 finds after a hearing held as part of the adjudication that continued shelter care is
19 consistent with the circumstances stated in subsections (b) and (c) of this section.

20 [(7) (6) (i) An adjudicatory or waiver hearing shall be held no later
21 than 30 days after the date a petition for detention is granted.

22 (ii) If a child is detained after an adjudicatory hearing, a
23 disposition hearing shall be held no later than 14 days after the adjudicatory hearing.

24 (iii) Detention time may be extended in increments of not more than
25 14 days where the petition charges the child with a delinquent act and where the
26 court finds, after a subsequent hearing, that extended detention is necessary either:

27 1. For the protection of the child; or

28 2. For the protection of the community.

29 (e) (1) Detention may not be continued beyond emergency detention unless,
30 upon an order of court after a hearing, the court has found that one or more of the
31 circumstances stated in subsection (b) of this section exist.

32 (2) A court order under this paragraph shall contain a written
33 determination of whether or not the criteria contained in subsection (c)(1) and (2) of
34 this section have been met.

35 (f) Shelter care may only be continued beyond emergency shelter care if the
36 court has found that:

1 (1) Continuation of the child in the child's home is contrary to the
2 welfare of the child; and

3 (2) (i) Removal of the child from the child's home is necessary due to
4 an alleged emergency situation and in order to provide for the safety of the child; or

5 (ii) Reasonable[,] but unsuccessful[,] efforts were made to prevent
6 or eliminate the need for removal of the child from the home.

7 (3) (i) If the court continues shelter care on the basis of an alleged
8 emergency, the court shall assess whether the absence of efforts to prevent removal
9 was reasonable.

10 (ii) If the court finds that the absence of efforts to prevent removal
11 was not reasonable, the court shall make a written determination so stating.

12 (4) The court shall make a determination as to whether reasonable
13 efforts are being made to make it possible to return the child to the child's home or
14 whether the absence of such efforts is reasonable.

15 (g) A child alleged to be delinquent may not be detained in a jail or other
16 facility for the detention of adults.

17 (h) (1) [(i)] A child alleged to be in need of supervision [or in need of
18 assistance] may not be placed in:

19 (I) [detention and may not be placed in a] DETENTION;

20 (II) A State mental health facility; OR

21 (III) A SHELTER CARE FACILITY THAT IS NOT OPERATING IN
22 COMPLIANCE WITH APPLICABLE STATE LICENSING LAWS.

23 [(ii) If the child is alleged to be in need of assistance by reason of a
24 mental handicap, the child may be placed in shelter care facilities maintained or
25 licensed by the Department of Health and Mental Hygiene or if these facilities are not
26 available, then in a private home or shelter care facility approved by the court.

27 (iii) If the]

28 (2) SUBJECT TO PARAGRAPH (1)(III) OF THIS SUBSECTION, A child [is]
29 alleged to be [in need of assistance for any other reason, or] in need of supervision[,
30 he] may be placed in shelter care facilities maintained or approved by the Social
31 Services Administration[,] or the Department of Juvenile Justice[,] or in a private
32 home or shelter care facility approved by the court.

33 [(2) A child alleged to be in need of supervision or in need of assistance
34 may not be placed in a shelter care facility that is not operating in compliance with
35 applicable State licensing laws.]

1 (3) The Secretary of Human Resources and the Secretary of [the
2 Department of] Juvenile Justice together, when appropriate, with the Secretary of
3 Health and Mental Hygiene shall jointly adopt regulations to ensure that any child
4 placed in shelter care pursuant to a petition filed under subsection (d) of this section
5 be provided appropriate services, including:

6 (i) Health care services;

7 (ii) Counseling services;

8 (iii) Education services;

9 (iv) Social work services; and

10 (v) Drug and alcohol abuse assessment or treatment services.

11 (4) In addition to any other provision, the regulations shall require:

12 (i) The [local department of social services or the] Department of
13 Juvenile Justice to develop a plan within 45 days of placement of a child in a shelter
14 care facility to assess the child's treatment needs; and

15 (ii) The plan to be submitted to all parties to the petition and their
16 counsel.

17 (i) The intake officer or the official who authorized detention or shelter care
18 UNDER THIS SUBTITLE shall immediately give written notice of the authorization for
19 detention or shelter care to the child's parent, guardian, or custodian[,] and to the
20 court. The notice shall be accompanied by a statement of the reasons for taking the
21 child into custody and placing him in detention or shelter care. This notice may be
22 combined with the notice required under subsection (d) of this section.

23 [3-818.] 3-8A-17.

24 (a) After a petition or a citation has been filed WITH THE COURT UNDER THIS
25 SUBTITLE, the court may direct the Department of Juvenile Justice or another
26 qualified agency to make a study concerning the child, [his] THE CHILD'S family,
27 [his] THE CHILD'S environment, and other matters relevant to the disposition of the
28 case.

29 (b) As part of [the] A study UNDER THIS SECTION, the child or any parent,
30 guardian, or custodian may be examined at a suitable place by a physician,
31 psychiatrist, psychologist, or other professionally qualified person.

32 (c) The report of [the] A study UNDER THIS SECTION is admissible as
33 evidence at a waiver hearing and at a disposition hearing, but not at an adjudicatory
34 hearing. However, the attorney for each party has the right to inspect the report prior
35 to its presentation to the court, to challenge or impeach its findings and to present
36 appropriate evidence with respect to it.

1 [3-819.] 3-8A-18.

2 (a) The provisions of this section do not apply to a peace order request or a
3 peace order proceeding.

4 (b) After a petition or citation has been filed WITH THE COURT UNDER THIS
5 SUBTITLE, and unless jurisdiction has been waived, the court shall hold an
6 adjudicatory hearing.

7 (c) (1) Before a child is adjudicated delinquent, the allegations in the
8 petition that the child has committed a delinquent act must be proved beyond a
9 reasonable doubt.

10 (2) Before a child is found to have committed the violation charged in a
11 citation, the allegations in the citation must be proved beyond a reasonable doubt.

12 (d) If an adult is charged under this subtitle, the allegations must be proved
13 beyond a reasonable doubt.

14 (e) In all other cases UNDER THIS SUBTITLE the allegations must be proved by
15 a preponderance of the evidence.

16 [3-820.] 3-8A-19.

17 (a) The provisions of this section do not apply to a peace order request or A
18 peace order proceeding.

19 (b) (1) After an adjudicatory hearing the court shall hold a separate
20 disposition hearing, unless the petition or citation is dismissed or unless such hearing
21 is waived in writing by all of the parties.

22 (2) [Except as provided in paragraph (3) of this subsection, the] A
23 disposition hearing may be held on the same day as the adjudicatory hearing[,] if
24 notice of the disposition hearing, as prescribed by the Maryland Rules, is waived on
25 the record by all of the parties.

26 [(3) In a child in need of assistance proceeding, the disposition hearing
27 shall be held on the same day as the adjudicatory hearing unless:

28 (i) The court or a party moves that the disposition hearing be
29 delayed; and

30 (ii) The court finds that there is good cause to delay the disposition
31 hearing to a subsequent day.]

32 (c) The priorities in making a disposition are consistent with the purposes
33 specified in [§ 3-802] § 3-8A-02 of this subtitle.

34 (d) (1) In making a disposition on a petition UNDER THIS SUBTITLE, the
35 court may:

1 (i) Place the child on probation or under supervision in his own
2 home or in the custody or under the guardianship of a relative or other fit person,
3 upon terms the court deems appropriate;

4 (ii) Subject to the provisions of paragraph (2) of this subsection,
5 commit the child to the custody or under the guardianship of the Department of
6 Juvenile Justice, [a local department of social services,] the Department of Health
7 and Mental Hygiene, or a public or licensed private agency on terms that the court
8 considers appropriate to meet the priorities set forth in [§ 3-802] § 3-8A-02 of this
9 subtitle, including designation of the type of facility where the child is to be
10 accommodated, until custody or guardianship is terminated with approval of the
11 court or as required under [§ 3-825] § 3-8A-24 of this subtitle; or

12 (iii) Order the child, parents, guardian, or custodian of the child to
13 participate in rehabilitative services that are in the best interest of the child and the
14 family.

15 (2) A child committed under paragraph (1)(ii) of this subsection may not
16 be accommodated in a facility that has reached budgeted capacity if a bed is available
17 in another comparable facility in the State, unless the placement to the facility that
18 has reached budgeted capacity has been recommended by the Department of Juvenile
19 Justice.

20 (3) The court shall consider any oral address made in accordance with
21 Article 27, § 780 of the Code or any victim impact statement, as described in Article
22 27, § 781 of the Code, in determining an appropriate disposition on a petition.

23 (e) (1) (i) Subject to the provisions of subparagraphs (iii) and (iv) of this
24 paragraph, in making a disposition on a finding that the child has committed the
25 violation specified in a citation, the court may order the Motor Vehicle Administration
26 to initiate an action, under the motor vehicle laws, to suspend the driving privilege of
27 a child licensed to operate a motor vehicle by the Motor Vehicle Administration for a
28 specified period of not less than 30 days nor more than 90 days.

29 (ii) In this paragraph "driver's license" means a license or permit to
30 drive a motor vehicle that is issued under the laws of this State or any other
31 jurisdiction.

32 (iii) In making a disposition on a finding that the child has
33 committed a violation under Article 27, § 400 of the Code specified in a citation that
34 involved the use of a driver's license or a document purporting to be a driver's license,
35 the court may order the Motor Vehicle Administration to initiate an action under the
36 Maryland Vehicle Law to suspend the driving privilege of a child licensed to operate a
37 motor vehicle by the Motor Vehicle Administration:

- 38 1. For a first offense, for 6 months; and
39 2. For a second or subsequent offense, until the child is 21
40 years old.

1 (iv) In making a disposition on a finding that the child has
2 committed a violation under § 26-103 of the Education Article, the court shall order
3 the Motor Vehicle Administration to initiate an action, under the motor vehicle laws,
4 to suspend the driving privilege of a child licensed to operate a motor vehicle by the
5 Motor Vehicle Administration for a specified period of not less than 30 days nor more
6 than 90 days.

7 (v) If a child subject to a suspension under this subsection does not
8 hold a license to operate a motor vehicle on the date of the disposition, the suspension
9 shall commence:

10 1. If the child is at least 16 years of age on the date of the
11 disposition, on the date of the disposition; or

12 2. If the child is younger than 16 years of age on the date of
13 the disposition, on the date the child reaches the child's 16th birthday.

14 (2) In addition to the dispositions under paragraph (1) of this subsection,
15 the court also may:

16 (i) Counsel the child or the parent or both, or order the child to
17 participate in an alcohol education or rehabilitation program that is in the best
18 interest of the child;

19 (ii) Impose a civil fine of not more than \$25 for the first violation
20 and a civil fine of not more than \$100 for the second and subsequent violations; or

21 (iii) Order the child to participate in a supervised work program for
22 not more than 20 hours for the first violation and not more than 40 hours for the
23 second and subsequent violations.

24 (3) (i) The provisions of paragraphs (1) and (2) of this subsection do
25 not apply to a child found to have committed a violation under Article 27, § 406 of the
26 Code.

27 (ii) In making a disposition on a finding that the child has
28 committed a violation under Article 27, § 406 of the Code, the court may:

29 1. Counsel the child or the parent or both, or order the child
30 to participate in a smoking cessation clinic, or other suitable presentation of the
31 hazards associated with tobacco use that is in the best interest of the child;

32 2. Impose a civil fine of not more than \$25 for the first
33 violation and a civil fine of not more than \$100 for a second or subsequent violation;
34 or

35 3. Order the child to participate in a supervised work
36 program for not more than 20 hours for the first violation and not more than 40 hours
37 for a second or subsequent violation.

1 (4) (i) In making a disposition on a finding that the child has
2 committed a violation under Article 27, § 139C, § 151A, or § 151C of the Code, the
3 court may order the Motor Vehicle Administration to initiate an action, under the
4 Maryland Vehicle Law, to suspend the driving privilege of a child for a specified
5 period not to exceed:

6 1. For a first offense, 6 months; and

7 2. For a second or subsequent offense, 1 year or until the
8 person is 21 years old, whichever is longer.

9 (ii) If a child subject to a suspension under this paragraph does not
10 possess the privilege to drive on the date of the disposition, the suspension shall
11 commence:

12 1. If the child is at an age that is eligible to obtain the
13 privilege to drive on the date of the disposition, on the date of the disposition; or

14 2. If the child is younger than an age that is eligible to obtain
15 the privilege to drive on the date of the disposition, on the date the child is eligible to
16 obtain driving privileges.

17 (f) A guardian appointed under this section has no control over the property of
18 the child unless he receives that express authority from the court.

19 (g) The court may impose reasonable court costs against a respondent, or the
20 respondent's parent, guardian, or custodian, against whom a finding of delinquency
21 has been entered under the provisions of this section.

22 (h) A child may be placed in an emergency facility on an emergency basis
23 under Title 10, Subtitle 6, Part IV of the Health - General Article.

24 (i) The court may not commit a child to the custody of the Department of
25 Health and Mental Hygiene UNDER THIS SECTION for inpatient care and treatment
26 in a State mental hospital unless the court finds on the record based upon clear and
27 convincing evidence that:

28 (1) The child has a mental disorder;

29 (2) The child needs inpatient medical care or treatment for the
30 protection of himself or others;

31 (3) The child is unable or unwilling to be voluntarily admitted to such
32 facility; and

33 (4) There is no less restrictive form of intervention available which is
34 consistent with the child's condition and welfare.

35 (j) The court may not commit a child to the custody of the Department of
36 Health and Mental Hygiene UNDER THIS SECTION for inpatient care and treatment

1 in a State mental retardation facility unless the court finds on the record based upon
2 clear and convincing evidence that:

3 (1) The child is mentally retarded;

4 (2) The condition is of such a nature that for the adequate care or
5 protection of the child or others, the child needs in-residence care or treatment; and

6 (3) There is no less restrictive form of care and treatment available
7 which is consistent with the child's welfare and safety.

8 (k) (1) Any commitment order issued under subsection (i) or (j) of this
9 section shall require the Department of Health and Mental Hygiene to file progress
10 reports with the court at intervals no greater than every 6 months during the life of
11 the order. The Department of Health and Mental Hygiene shall provide the child's
12 attorney of record with a copy of each report. The court shall review each report
13 promptly and consider whether the commitment order should be modified or vacated.
14 After the first 6 months of the commitment and at 6-month intervals thereafter upon
15 the request of any party, the Department or facility, the court shall grant a hearing for
16 the purpose of determining if the [standard] STANDARDS SPECIFIED in subsection (i)
17 or (j) of this section [continues] CONTINUE to be met.

18 (2) [At] IF, AT any time after the commitment of the child to a State
19 mental hospital [if] UNDER THIS SECTION, the individualized treatment plan
20 developed under § 10-706 of the Health - General Article recommends that a child no
21 longer meets the standards SPECIFIED in subsection (i) of this section, then the court
22 shall grant a hearing to review the commitment order. The court may grant a hearing
23 at any other time for the purpose of determining if the [standard] STANDARDS
24 SPECIFIED in subsection (i) of this section [continues] CONTINUE to be met.

25 (3) [Any] IF, AT ANY time after the commitment of the child to a State
26 mental retardation facility [if] UNDER THIS SECTION, the individualized plan of
27 habilitation developed under § 7-1006 of the Health - General Article recommends
28 that a child no longer meets the standards SPECIFIED in subsection (j) of this section,
29 then the court shall grant a hearing to review the commitment order. The court may
30 grant a hearing at any other time for the purpose of determining if the [standard]
31 STANDARDS SPECIFIED in subsection (j) of this section [continues] CONTINUE to be
32 met.

33 [(l) In a child in need of assistance case, if the disposition includes removal of
34 the child from the home, the court shall issue an order:

35 (1) Making specific findings of fact as to the circumstances that caused
36 the need for the removal; and

37 (2) Informing the parents that the agency or department having
38 commitment of the child may change the permanency plan of reunification to another
39 permanency plan which may include the filing of a petition for termination of
40 parental rights if:

1 (i) The parents have not made significant progress to remedy the
2 circumstances that caused the need for the removal as specified in the court order;
3 and

4 (ii) The parents are unwilling or unable to give the child proper
5 care and attention within a reasonable period of time.]

6 [3-820.1.] 3-8A-19.1.

7 (a) In this section, and in [§§ 3-820.2, 3-820.3, and 3-820.4] §§ 3-8A-19.2,
8 3-8A-19.3, AND 3-8A-19.4 of this subtitle, "victim" means an individual against whom
9 an act described in subsection (b) of this section is committed or alleged to have been
10 committed.

11 (b) (1) Except as provided in paragraph (2) of this subsection, after an
12 inquiry conducted in accordance with [§ 3-810] § 3-8A-10 of this subtitle, an intake
13 officer may file with the court a peace order request that alleges the commission of
14 any of the following acts against a victim by the respondent, if the act occurred within
15 30 days before the filing of the complaint under [§ 3-810] § 3-8A-10 of this subtitle:

16 (i) An act that causes serious bodily harm;

17 (ii) An act that places the victim in fear of imminent serious bodily
18 harm;

19 (iii) Assault in any degree;

20 (iv) Rape or sexual offense, as defined in Article 27, §§ 462 through
21 464C of the Code or attempted rape or sexual offense in any degree;

22 (v) False imprisonment;

23 (vi) Harassment, as described in Article 27, § 123 of the Code;

24 (vii) Stalking, as described in Article 27, § 124 of the Code;

25 (viii) Trespass, as described in the Trespass subheading of Article 27
26 of the Code; or

27 (ix) Malicious destruction of property, as described in Article 27, §
28 111 of the Code.

29 (2) After a review conducted in accordance with [§ 3-810(c)(4)(ii)] §
30 3-8A-10(C)(4)(II) of this subtitle, the State's Attorney may file with the court a peace
31 order request that meets the requirements of paragraph (1) of this subsection.

32 [3-820.2.] 3-8A-19.2.

33 (a) In this section, "residence" includes the yard, grounds, outbuildings, and
34 common areas surrounding the residence.

1 (b) (1) If a peace order request is filed under [§ 3-820.1(b)] § 3-8A-19.1(B) of
2 this subtitle, the respondent shall have an opportunity to be heard on the question of
3 whether the court should issue a peace order.

4 (2) If the court finds by clear and convincing evidence that the
5 respondent has committed, and is likely to commit in the future, an act specified in [§
6 3-820.1(b)] § 3-8A-19.1(B) of this subtitle against the victim, or if the respondent
7 consents to the entry of a peace order, the court may issue a peace order to protect the
8 victim.

9 (c) (1) The peace order may include any or all of the following relief:

10 (i) Order the respondent to refrain from committing or threatening
11 to commit an act specified in [§ 3-820.1(b)] § 3-8A-19.1(B) of this subtitle against the
12 victim;

13 (ii) Order the respondent to refrain from contacting, attempting to
14 contact, or harassing the victim;

15 (iii) Order the respondent to refrain from entering the residence of
16 the victim;

17 (iv) Order the respondent to remain away from the place of
18 employment, school, or temporary residence of the victim; and

19 (v) Direct the respondent or the victim to participate in
20 professionally supervised counseling.

21 (2) If the court issues an order under this section, the order shall contain
22 only the relief that is minimally necessary to protect the victim.

23 (3) All relief granted in a peace order shall be effective for the period
24 stated in the order, not to exceed 6 months.

25 (4) If the court issues an order under this section, the court may impose
26 reasonable court costs against a respondent, or the respondent's parent, guardian, or
27 custodian.

28 [3-820.3.] 3-8A-19.3.

29 (a) A copy of the peace order shall be served on the victim, the respondent, the
30 appropriate law enforcement agency, and any other person the court determines is
31 appropriate, in open court or, if the person is not present at the peace order hearing,
32 by first-class mail to the person's last known address.

33 (b) (1) A copy of the peace order served on the respondent in accordance with
34 subsection (a) of this section constitutes actual notice to the respondent of the
35 contents of the peace order.

36 (2) Service is complete upon mailing.

1 [3-820.4.] 3-8A-19.4.

2 The court may modify or rescind the peace order during the term of the peace
3 order after:

4 (1) Giving notice to the victim and the respondent; and

5 (2) A hearing.

6 [3-820.5.] 3-8A-19.5.

7 (a) A violation of any of the provisions of a peace order specified in [§
8 3-820.2(c)(1)(i), (ii), (iii), or (iv)] § 3-8A-19.2(C)(1)(I), (II), (III), OR (IV) of this subtitle is
9 a delinquent act.

10 (b) A law enforcement officer shall take into custody a child whom the officer
11 has probable cause to believe is in violation of a peace order in effect at the time of the
12 violation.

13 [3-821.] 3-8A-20.

14 (a) Except as provided in [subsections (b), (c), and (f)] SUBSECTION (C) of this
15 section, a party is entitled to the assistance of counsel at every stage of any
16 proceeding under this subtitle.

17 (b) [Except for the petitioner and the child who is the subject of the petition, a
18 party in a child in need of assistance proceeding is not entitled to the assistance of
19 counsel at State expense unless:

20 (1) The party is the custodial parent or guardian of the child alleged to
21 be in need of assistance;

22 (2) The party is indigent; and

23 (3) (i) The proceeding is under § 3-815, § 3-819, or § 3-820 of this
24 subtitle; or

25 (ii) 1. The proceeding is a review hearing under Maryland Rule
26 11-115 or Maryland Rule 11-116 in which:

27 A. The State has moved to remove the child from the custody
28 of the parent or guardian; or

29 B. The parent or guardian has moved to regain custody; and

30 2. Due to the presence of complex factual or legal issues the
31 assistance of counsel is necessary to ensure that the proceeding does not entail the
32 risk of erroneous deprivation of custody.

33 (c) Except as provided in subsection (d) of this section, the Office of the Public
34 Defender may not represent a party in a child in need of assistance proceeding unless:

1 (1) The party is the custodial parent or legal guardian of the child
2 alleged to be in need of assistance;

3 (2) (i) The proceeding is under § 3-815, § 3-819, or § 3-820 of this
4 subtitle; or

5 (ii) The proceeding is under Maryland Rule 11-115 or Maryland
6 Rule 11-116 in which:

7 1. A. The State has moved to remove the child from the
8 custody of the parent or guardian; or

9 B. The parent or guardian has moved to regain custody; and

10 2. Due to the presence of complex factual or legal issues the
11 assistance of counsel is necessary to ensure that the proceeding does not entail the
12 risk of erroneous deprivation of custody;

13 (iii) The party applies to the Office of the Public Defender
14 requesting legal representation by the Public Defender in the proceeding; and

15 (iv) The party is financially eligible for the services of the Public
16 Defender.

17 (d) Subsection (c) of this section does not prohibit the Office of the Public
18 Defender from representing a child in Montgomery County who is alleged or found to
19 be in need of assistance.

20 (e) Compensation for the services of an attorney appointed to represent a child
21 in an action under this subtitle may be assessed by the court against any party or
22 against a parent of the child.

23 [(f)] (C) (1) A party is not entitled to the assistance of counsel at a peace
24 order proceeding.

25 (2) Paragraph (1) of this subsection does not affect the entitlement of a
26 respondent to the assistance of counsel in a contempt proceeding as provided by law.
27 [3-823.] 3-8A-22.

28 (a) A child may not be detained at, or committed or transferred [to] TO, a
29 [penal institution or other facility used primarily for the confinement of adults
30 charged with or convicted of a crime] CORRECTIONAL FACILITY, AS DEFINED IN §
31 1-101 OF THE CORRECTIONAL SERVICES ARTICLE, except [pursuant to § 3-816(b)] IN
32 ACCORDANCE WITH § 3-8A-16 OF THIS SUBTITLE.

33 (b) A child who is not delinquent may not be committed or transferred to a
34 facility used for the confinement of delinquent children.

35 (c) Unless an individualized treatment plan developed under § 10-706 of the
36 Health - General Article indicates otherwise:

1 (1) A child may not be committed or transferred to any public or private
2 facility or institution unless the child is placed in accommodations that are separate
3 from other persons 18 years of age or older who are confined to that facility or
4 institution; and

5 (2) The child may not be treated in any group with persons who are 18
6 years of age or older.

7 [3-825.] 3-8A-24.

8 (a) Except as provided in subsections (b) and (c) OF THIS SECTION, an order
9 UNDER THIS SUBTITLE vesting legal custody in an individual, agency, or institution is
10 effective for an indeterminate period of time.

11 (b) An order providing for custody of a child adjudicated delinquent or in need
12 of supervision may not exceed three years from the date entered. However, the court
13 may renew the order upon its own motion, or pursuant to a petition filed by the
14 individual, institution, or agency having legal custody after notice and hearing as
15 prescribed by the Maryland Rules.

16 (c) An order under this section is not effective after the child becomes 21 years
17 old.

18 [3-826.] 3-8A-25.

19 If a child is committed UNDER THIS SUBTITLE to an individual or to a public or
20 private agency or institution, the court may require the custodian to file periodic
21 written progress reports, with recommendations for further supervision, treatment,
22 or rehabilitation.

23 [3-827.] 3-8A-26.

24 Pursuant to the procedure provided in the Maryland Rules, the court may make
25 an appropriate order directing, restraining, or otherwise controlling the conduct of a
26 person who is properly before the court UNDER THIS SUBTITLE, if:

27 (1) The court finds that the conduct:

28 (i) Is or may be detrimental or harmful to a child over whom the
29 court has jurisdiction; or

30 (ii) Will tend to defeat the execution of an order or disposition made
31 or to be made; or

32 (iii) Will assist in the rehabilitation of or is necessary for the welfare
33 of the child; and

34 (2) Notice of the application or motion and its grounds has been given as
35 prescribed by the Maryland Rules.

1 [3-828.] 3-8A-27.

2 (a) (1) A police record concerning a child is confidential and shall be
3 maintained separate from those of adults. Its contents may not be divulged, by
4 subpoena or otherwise, except by order of the court upon good cause shown or as
5 otherwise provided in § 7-303 of the Education Article.

6 (2) This subsection does not prohibit:

7 (i) Access to and confidential use of the record by the Department
8 of Juvenile Justice or in the investigation and prosecution of the child by any law
9 enforcement agency; or

10 (ii) A law enforcement agency of the State or of a political
11 subdivision of the State or the criminal justice information system from including, in
12 the law enforcement computer information system, information about an outstanding
13 juvenile court ordered writ of attachment, for the sole purpose of apprehending a child
14 named in the writ.

15 (b) (1) A court record pertaining to a child is confidential and its contents
16 may not be divulged, by subpoena or otherwise, except by order of the court upon good
17 cause shown or as provided in § 7-303 of the Education Article.

18 (2) This subsection does not prohibit access to and the use of the court
19 record or fingerprints of a child described under the Criminal Justice Information
20 System subtitle of Article 27 of the Code in a proceeding in the court involving the
21 child, by personnel of the court, the State's Attorney, counsel for the child, a
22 court-appointed special advocate for the child, or authorized personnel of the
23 Department of Juvenile Justice[, or, in a proceeding involving a child alleged to be in
24 need of assistance, by authorized personnel of the Social Services Administration and
25 local departments of social services of the Department of Human Resources in order
26 to conduct a child abuse or neglect investigation or to comply with requirements
27 imposed under Title IV-E of the Social Security Act].

28 [(3) Information obtained from a juvenile [court record by authorized
29 personnel of the Department of Human Resources under paragraph (2) of this
30 subsection is subject to the provisions of Article 88A, § 6 of the Code.]

31 [(4)] (3) (i) Except as provided in subparagraph (ii) of this paragraph,
32 this subsection does not prohibit access to and confidential use of the court record or
33 fingerprints of a child described under the Criminal Justice Information System
34 subtitle of Article 27 of the Code in an investigation and prosecution by a law
35 enforcement agency.

36 (ii) The court record or fingerprints of a child described under
37 Article 27, §§ 747(a)(21) and (22) and 747A of the Code may not be disclosed to:

38 1. A federal criminal justice agency or information center; or

1 [3-830.] 3-8A-29.

2 After giving the parent a reasonable opportunity to be heard, the court may
3 order either parent or both parents to pay a sum in the amount the court directs to
4 cover WHOLLY OR PARTLY the support of the child [in whole or in part] UNDER THIS
5 SUBTITLE.

6 [3-831.] 3-8A-30.

7 (a) It is unlawful for an adult wilfully to contribute to, encourage, cause or
8 tend to cause any act, omission, or condition which results in a violation, renders a
9 child delinquent[,] OR in need of supervision[, or in need of assistance].

10 (b) A person may be convicted under this section even if the child has not been
11 found to have committed a violation[,] OR adjudicated delinquent[,] OR in need of
12 supervision[, or in need of assistance]. However, the court may expunge a delinquent
13 adjudication from the child's record and enter it as a finding in the adult's case.

14 (c) An adult convicted under this section is subject to a fine of not more than
15 \$2,500 or imprisonment for not more than 3 years, or both. The court may suspend
16 sentence and place the adult on probation subject to the terms and conditions it
17 deems to be in the best interests of the child and the public.

18 [3-834.] 3-8A-32.

19 (a) [(1) Subject to paragraph (2) of this subsection, in] IN addition to any
20 requirements relating to the appointment of counsel for children, at any time during
21 the pendency of any action UNDER THIS SUBTITLE, where it appears to the court that
22 the protection of the rights of a child requires independent representation, the court
23 may, upon its own motion, or the motion of any party to the action, appoint an
24 attorney to represent the interest of the child in that particular action. Such actions
25 include but are not limited to those involving a [child in need of assistance,] child in
26 need of supervision, delinquent child, or mentally handicapped child.

27 [(2) In an action in which payment for the services of a court-appointed
28 attorney for the child is the responsibility of the local department of social services,
29 unless the court finds that it would not be in the best interests of the child, the court
30 shall:

31 (i) Appoint an attorney who has contracted with the Department of
32 Human Resources to provide those services, in accordance with the terms of the
33 contract; and

34 (ii) In an action in which an attorney has previously been
35 appointed, strike the appearance of the attorney previously appointed, and appoint
36 the attorney who is currently under contract with the Department of Human
37 Resources, in accordance with the terms of the contract.]

38 (b) The compensation for the services of the attorney UNDER THIS SECTION
39 may be assessed against any party or parties to the action.

1 [(c) In addition to, but not instead of, the appointment of an attorney under
2 subsection (a) of this section, the court, in any action, may appoint an individual
3 provided by the Court-Appointed Special Advocate Program established under §
4 3-834.1 of this subtitle.]

5 [3-835.] 3-8A-33.

6 (a) A law enforcement officer authorized to make arrests shall issue a citation
7 to a child if the officer has probable cause to believe that the child is violating:

8 (1) Article 27, § 400, § 400A, § 400B, § 401, or § 406 of the Code; or

9 (2) § 26-103 of the Education Article.

10 (b) A citation issued under this section shall be in a format prescribed by the
11 Chief Judge of the District Court of Maryland after consultation with police
12 administrators and the Motor Vehicle Administrator. The uniform motor vehicle
13 citation form shall be printed by the District Court, and all other citation forms shall
14 be printed by the law enforcement agencies of the State and signed by the issuing
15 officer and shall contain:

16 (1) The name, address, and birth date of the child being charged with the
17 violation;

18 (2) The name and address of the child's parent or legal guardian;

19 (3) The statute allegedly violated;

20 (4) The time, place, and date of the violation;

21 (5) The driver's license number of the child, if the child possesses a
22 driver's license;

23 (6) The registration number of the motor vehicle, motorcycle, or other
24 vehicle, if applicable;

25 (7) The signature of the child; and

26 (8) The penalties which may be imposed under [§ 3-820] § 3-8A-19 of
27 this subtitle.

28 (c) A copy of the citation issued under this section shall be:

29 (1) Given to the child being charged;

30 (2) Retained by the officer issuing the citation;

31 (3) Mailed within 7 days to the child's parent or legal guardian; and

32 (4) Filed with the intake officer of the court having jurisdiction under
33 this subtitle.

1 4-301.

2 (a) Except as provided in [§ 4-302 and § 3-804] §§ 3-803, 3-8A-03, AND 4-302
 3 OF THIS ARTICLE, the District Court has exclusive original jurisdiction in a criminal
 4 case in which a person at least 16 years old or a corporation is charged with violation
 5 of the vehicle laws, or the State Boat Act, or [rules and] regulations adopted
 6 pursuant to [it] THE VEHICLE LAWS OR STATE BOAT ACT.

7 5-805.

8 (a) (3) "Offender" means a person assigned or ordered to perform
 9 community service:

10 (i) By a court [according to the provisions of Article 27, § 726A of
 11 the Code] UNDER TITLE 8, SUBTITLE 7 OF THE CORRECTIONAL SERVICES ARTICLE or
 12 [§ 3-820] § 3-8A-19 of this article; or

13 (ii) By an intake officer under [§ 3-810] § 3-8A-10 of this article.

14 (5) "Private provider" means an organization that:

15 (ii) 2. Provides work projects for juveniles assigned or ordered to
 16 perform community service under [§ 3-810] § 3-8A-10 or [§ 3-820] § 3-8A-19 of this
 17 article; or

18 12-403.

19 (a) An appeal from the District Court sitting in one of the counties shall be
 20 taken to the circuit court [of] FOR the county in which judgment was entered. In
 21 Montgomery County, an appeal from the District Court sitting as a juvenile court
 22 shall be as provided for in [§ 3-832] §§ 3-808(C) AND 3-8A-31 of this article.

23 **Article - Education**

24 7-303.

25 (a) (5) "Reportable offense" means:

26 (ii) Any of the offenses enumerated in [§ 3-804(e)(4)] §
 27 3-8A-03(D)(4) of the Courts Article;

28 26-103.

29 (b) (1) Any person under 18 years of age who violates the provisions of this
 30 section shall be issued a citation and be subject to the dispositions for a violation
 31 under TITLE 3, Subtitle [8] 8A [of Title 3] of the Courts [and Judicial Proceedings]
 32 Article.

Article - Family Law

1 5-322.

2 (a) (1) (ii) In addition to the notice of filing required under subparagraph
3 (i) of this paragraph, if a petition for guardianship is filed after a juvenile proceeding
4 in which the child has been adjudicated to be a child in need of assistance[, a
5 neglected child, or an abused child], a petitioner shall give notice of the filing of the
6 petition for guardianship to:

7 1. the attorney who represented a natural parent in the
8 juvenile proceeding; and

9 2. the attorney who represented the minor child in the
10 juvenile proceeding.

11 (b) If a petition for guardianship is filed after a juvenile proceeding in which
12 the child has been adjudicated to be a child in need of assistance, the petitioner shall
13 give notice to the child's natural parent by serving a show cause order by certified
14 mail or private process on the natural parent:

15 (1) if the natural parent was present at a CINA hearing and notified by
16 the court of the requirements of [§ 3-837] § 3-822 of the Courts Article:

17 (i) at the latest address listed in juvenile court records maintained
18 in accordance with [§ 3-837] § 3-822 of the Courts Article;

19 (ii) at the latest address listed in the records of the local
20 department of social services; or

21 (iii) at any other address listed in the records of the juvenile court or
22 local department of social services within 6 months before the filing of the
23 guardianship petition; or

24 (2) if the natural parent was not present at a CINA hearing and notified
25 by the court of the requirements of [§ 3-837] § 3-822 of the Courts Article:

26 (i) at the latest address, if any, listed in juvenile court records
27 maintained in accordance with [§ 3-837] § 3-822 of the Courts Article; or

28 (ii) at any other address for the natural parent identified after
29 reasonable good faith efforts to locate the parent.

30 5-525.

31 (d) (1) Unless a court orders that reasonable efforts are not required under
32 [§ 3-812.1] § 3-812 of the Courts Article or § 5-313 of this title, reasonable efforts
33 shall be made to preserve and reunify families:

34 (i) prior to the placement of a child in an out-of-home placement,
35 to prevent or eliminate the need for removing the child from the child's home; and

1 (ii) to make it possible for a child to safely return to the child's
2 home.

3 **Article - Health - General**

4 10-923.

5 (a) Application for placement of a child or adolescent in a private therapeutic
6 group home may be made under this section by:

7 (4) On behalf of a child or adolescent, a local department of social
8 services [when the local department] THAT has custody or guardianship of the child
9 or adolescent under [§ 3-820] § 3-819 of the Courts [and Judicial Proceedings]
10 Article;

11 (6) On behalf of a child or adolescent, the Department of Juvenile Justice
12 when the Department has custody or guardianship of the child or adolescent under [§
13 3-820] § 3-819 of the Courts [and Judicial Proceedings] Article; or

14 (7) The circuit court [of] FOR a county[, Baltimore City] sitting as the
15 juvenile court[, and] OR, in Montgomery County, the District Court sitting as THE
16 juvenile court.

17 **Article - Insurance**

18 19-515.

19 An insurer may not refuse to issue or renew a motor vehicle liability insurance
20 policy under this subtitle on the ground that the applicant has been issued a citation
21 under [§ 3-835] § 3-8A-33 of the Courts Article.

22 **Article - Natural Resources**

23 8-712.2.

24 (e) A juvenile charged with any violation under this section shall be charged
25 [under] AS PROVIDED IN Title 3, [Subtitle 8] SUBTITLE 8A of the Courts [and
26 Judicial Proceedings] Article.

27 **Article - Transportation**

28 16-206.

29 (b) (1) Upon notification by the clerk of the court that a child has been
30 adjudicated delinquent for a violation of § 21-902 of this article, or that a finding has
31 been made that a child violated § 21-902 of this article, the Administration shall
32 suspend or revoke the driving privilege of the child in accordance with [§
33 3-824(a)(4)(i)] § 3-8A-23(A)(4)(I) of the Courts Article.

1 (c) (1) Pursuant to a court order under [§ 3-820(e)] § 3-8A-19(E) of the
2 Courts Article, the Administration shall initiate an action to suspend the driving
3 privilege of a child for the time specified by the court.

4 (2) If a child subject to a suspension under [§ 3-820(e)] § 3-8A-19(E) of
5 the Courts Article does not hold a license to operate a motor vehicle on the date of the
6 court order, the suspension shall commence:

7 (i) If the child is at least 16 years of age on the date of the
8 disposition, on the date of the disposition; or

9 (ii) If the child is younger than 16 years of age on the date of the
10 disposition, on the date the child reaches the child's 16th birthday.

11 24-304.

12 (b) The charging of a person with a violation of this subtitle shall be by means
13 of a traffic citation in the form determined under [§ 3-835(b)] § 3-8A-33(B) of the
14 Courts Article.

15 **Article 27 - Crimes and Punishments**

16 402.

17 (a) Any person under the age of 18 years who violates [the provisions] ANY
18 PROVISION of this subheading shall be issued a citation by a police officer authorized
19 to make arrests and shall be subject to the procedures and dispositions provided in
20 [Subtitle 8 of] Title 3, SUBTITLE 8A of the Courts [and Judicial Proceedings] Article.
21 763.

22 (d) A District Court commissioner or an intake officer, as defined in [§
23 3-801(o)] § 3-8A-01 of the Courts Article, may, for good cause shown, impose one or
24 more of the conditions described in subsection (b)(1) through (4) of this section as a
25 condition of the pretrial release of a defendant.

26 **Article - Criminal Procedure**

27 4-202.

28 (b) Except as provided in subsection (c) of this section, a court exercising
29 jurisdiction in a case involving a child may transfer the case to the juvenile court if:

30 (1) the accused child was at least 14 but not 18 years of age when the
31 alleged crime was committed;

32 (2) the alleged crime is excluded from the jurisdiction of the juvenile
33 court under [§ 3-804(e)(1), (4), or (5)] § 3-8A-03(D)(1), (4), OR (5) of the Courts Article;
34 and

1 (3) the court believes that a transfer of its jurisdiction is in the interest of
2 the child or society.

3 (c) The court may not transfer a case to the juvenile court under subsection (b)
4 of this section if:

5 (1) the child previously has been transferred to juvenile court and
6 adjudicated delinquent;

7 (2) the child was convicted in an unrelated case excluded from the
8 jurisdiction of the juvenile court under [§ 3-804(e)(1) or (4)] § 3-8A-03(D)(1) OR (4) of
9 the Courts Article; or

10 (3) the alleged crime is murder in the first degree and the accused child
11 was 16 or 17 years of age when the alleged crime was committed.

12 10-106.

13 (A) IN THIS SECTION, "DELINQUENCY PETITION" MEANS A PETITION FILED
14 UNDER § 3-8A-10 OF THE COURTS ARTICLE ALLEGING THAT A CHILD IS A
15 DELINQUENT CHILD.

16 [(a)] (B) A person may file a petition for expungement of a criminal charge
17 transferred to the juvenile court under § 4-202 of this article:

18 (1) after the date of the decision not to file a DELINQUENCY petition
19 [under § 3-810 of the Courts Article]; or

20 (2) [if a petition is filed under § 3-810 of the Courts Article,] after [a]
21 THE decision ON THE DELINQUENCY PETITION of facts-not-sustained.

22 [(b)] (C) The court may grant a petition for expungement to a person when the
23 person becomes 21 years old, if a charge transferred under § 4-202 of this article
24 resulted in[:

25 (1) the filing of a petition under § 3-810 of the Courts Article; and

26 (2)] the adjudication of the person as a delinquent child.

27 [(c)] (D) A court shall grant a petition for expungement of a criminal charge
28 that was transferred to the juvenile court under § 4-202 of this article, if:

29 (1) the charge that was transferred under § 4-202 of this article did not
30 result in the filing of a DELINQUENCY petition [under § 3-810 of the Courts Article];
31 or

32 (2) the [charge did result in the filing of a petition under § 3-810 of the
33 Courts Article and the] decision on the DELINQUENCY petition was that there was a
34 finding of facts-not-sustained.

1 10-201.

2 (d) (3) "Criminal history record information" does not include:

3 (i) data contained in intelligence or investigatory files or police
4 work product records used only for police investigations;

5 (ii) except as provided in paragraph (2)(ii) and (iii) of this
6 subsection, data about a proceeding under Title 3, [Subtitle 8] SUBTITLE 8A of the
7 Courts Article;

8 (iii) wanted posters, police blotter entries, court records of public
9 judicial proceedings, or published court opinions;

10 (iv) data about a violation of:

11 1. a traffic law of this State or any other traffic law,
12 ordinance, or regulation;

13 2. a local ordinance or a State or local regulation; or

14 3. the Natural Resources Article or a public local law;

15 (v) data about the point system established by the Motor Vehicle
16 Administration under Title 16 of the Transportation Article; or

17 (vi) a presentence investigation report or other report that a
18 probation department prepares for a court to use in the exercise of criminal
19 jurisdiction or for the Governor to use in the exercise of the Governor's power to grant
20 a pardon, reprieve, commutation, or nolle prosequi.

21 10-215.

22 (a) The following events are reportable events under this subtitle that must be
23 reported to the Central Repository in accordance with § 10-214 of this subtitle:

24 (21) an adjudication of a child as delinquent:

25 (i) if the child is at least 14 years old, for an act described in [§
26 3-804(e)(1)] § 3-8A-03(D)(1) of the Courts Article; or

27 (ii) if the child is at least 16 years old, for an act described in [§
28 3-804(e)(4) or (5)] § 3-8A-03(D)(4) OR (5) of the Courts Article;

29 10-216.

30 (e) (1) This subsection only applies to an adjudication of delinquency of a
31 child:

32 (i) for an act described in [§ 3-804(e)(1)] § 3-8A-03(D)(1) of the
33 Courts Article if the child is at least 14 years old; or

1 (ii) for an act described in [§ 3-804(e)(4) or (5)] § 3-8A-03(D)(4) OR
2 (5) of the Courts Article if the child is at least 16 years old.

3 10-220.

4 (a) Except as provided in subsection (b) of this section, notwithstanding any
5 other provision of this subtitle, a criminal justice unit and the Central Repository may
6 not maintain or disseminate criminal history record information in a way that is
7 inconsistent with [§ 3-828] § 3-8A-27 of the Courts Article.

8 (b) Notwithstanding [§ 3-828(a)] § 3-8A-27(A) of the Courts Article, criminal
9 history record information on a child and a record of the fingerprinting of a child
10 required under § 10-216(e) of this subtitle need not be maintained separate from such
11 records on adults.

12 11-113.

13 (c) The following shall notify a victim of prohibited exposure or the victim's
14 representative of the provisions of Part II of this subtitle:

15 (1) a sexual assault crisis program established under § 11-923 of this
16 title when a victim or victim's representative contacts the program;

17 (2) an intake officer who receives a complaint for the alleged prohibited
18 exposure under [§ 3-810] § 3-8A-10 of the Courts Article; or

19 (3) on the filing of a charging document or delinquency petition for the
20 alleged prohibited exposure:

21 (i) the Department of State Police;

22 (ii) the Police Department of Baltimore City;

23 (iii) the police unit of a county;

24 (iv) the police unit of a municipal corporation;

25 (v) the office of the sheriff of a county;

26 (vi) the office of the State's Attorney of a county;

27 (vii) the office of the Attorney General;

28 (viii) the office of the State Prosecutor;

29 (ix) the Department of Juvenile Justice; or

30 (x) the police unit of a bicounty unit or the University of Maryland.

1 11-202.

2 (a) In this section, "victim" has the meaning stated in [§ 3-801] § 3-8A-01 of
3 the Courts Article.

4 (b) A victim of a delinquent act has the rights provided under [§ 3-810] TITLE
5 3, SUBTITLE 8A of the Courts Article.

6 11-302.

7 (b) This section applies to:

8 (1) a criminal trial; and

9 (2) a juvenile delinquency adjudicatory hearing that is held in open court
10 or that a victim or representative may attend under [§ 3-812] § 3-8A-13 of the Courts
11 Article.

12 (g) This section does not limit a victim's or representative's right to attend a
13 trial or juvenile delinquency adjudicatory hearing as provided in [§ 3-812] § 3-8A-13
14 of the Courts Article or § 11-102 of this article.

15 11-402.

16 (c) (1) The prosecuting attorney shall notify a victim who has filed a
17 notification request form under § 11-104 of this title of the victim's right to submit a
18 victim impact statement to the court in a transfer hearing under § 4-202 of this
19 article or a waiver hearing under [§ 3-817] § 3-8A-06 of the Courts Article.

20 (2) This subsection does not preclude a victim who has not filed a
21 notification request form under § 11-104 of this title from submitting a victim impact
22 statement to the court.

23 (3) The court may consider a victim impact statement in determining
24 whether to transfer jurisdiction under § 4-202 of this article or waive jurisdiction
25 under [§ 3-817] § 3-8A-06 of the Courts Article.

26 **Article 83C - Juvenile Justice**

27 2-101.

28 (b) It is the policy of the State that the Department comply with the provisions
29 of §§ 3-802 AND 3-8A-02 of the Courts [and Judicial Proceedings] Article.

30 2-112.

31 Detention, adjudication, disposition, and place and period of commitment in
32 juvenile causes AS TO CHILDREN IN NEED OF SUPERVISION AND DELINQUENT
33 CHILDREN are governed by Title 3, [Subtitle 8] SUBTITLE 8A of the Courts Article.

1 2-118.

2 (b) Subject to the provisions of Title 3, [Subtitle 8] SUBTITLES 8 AND 8A of the
3 Courts Article, the Department shall:

4 (1) Adopt [rules and] regulations that set:

5 (i) Policies for admission, transfer, discharge, and aftercare
6 supervision; and

7 (ii) Standards of care, including provisions to administer any early,
8 periodic screening diagnosis and treatment program that the Department approves
9 for establishment under Title 42, § 1396d(a)(4)(B) of the United States Code and to
10 treat appropriately any condition that the screening reveals; and

11 (2) Order any needed changes in the policy, conduct, or management of a
12 facility to provide adequate care for the children and adequate services to the courts.

13 2-126.

14 (a) If requested by a court sitting as a juvenile court or by any other court in a
15 proceeding that involves the interest of a minor, the Department shall provide the
16 services described in this article.

17 (b) The Department shall provide the employees needed to supply such
18 services as may be required by order of a judge sitting as a juvenile court.

19 (c) The Department shall cooperate with the judges of the juvenile court in
20 carrying out the objectives of this article and Title 3, [Subtitle 8] SUBTITLES 8 AND
21 8A of the Courts [and Judicial Proceedings] Article.

22 SECTION 7. AND BE IT FURTHER ENACTED, That this Act does not affect
23 the validity of any proceeding pending on the effective date of this Act and does not
24 affect the release, extinguishment, or alteration, wholly or partly, of any penalty,
25 forfeiture, or liability, whether civil or criminal, which shall have occurred under any
26 statute amended or repealed by this Act and such statute shall be treated as still
27 remaining in force for the purpose of sustaining any and all proper actions for the
28 enforcement of such penalty, forfeiture, or liability and any judgment, decree, or order
29 that can be rendered in such action.

30 SECTION 8. AND BE IT FURTHER ENACTED, That the Committee Notes
31 contained this Act are not law and may not be construed to have been enacted as part
32 of this Act.

33 SECTION 9. AND BE IT FURTHER ENACTED, That Section 4 of this Act
34 shall take effect beginning with the fiscal year in which funding for § 3-813(c) of the
35 Courts and Judicial Proceedings Article as enacted by Section 4 of this Act is first
36 enacted as part of the budget for the Office of the Public Defender.

1 SECTION 10. AND BE IT FURTHER ENACTED, That Section 5 of this Act
2 shall take effect beginning with the fiscal year in which funding to offset the county
3 funding is first enacted as part of the budget for the Judicial Branch.

4 SECTION 11. AND BE IT FURTHER ENACTED, That, except as provided in
5 Sections 9 and 10 of this Act, this Act shall take effect October 1, 2001.